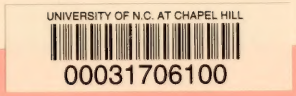
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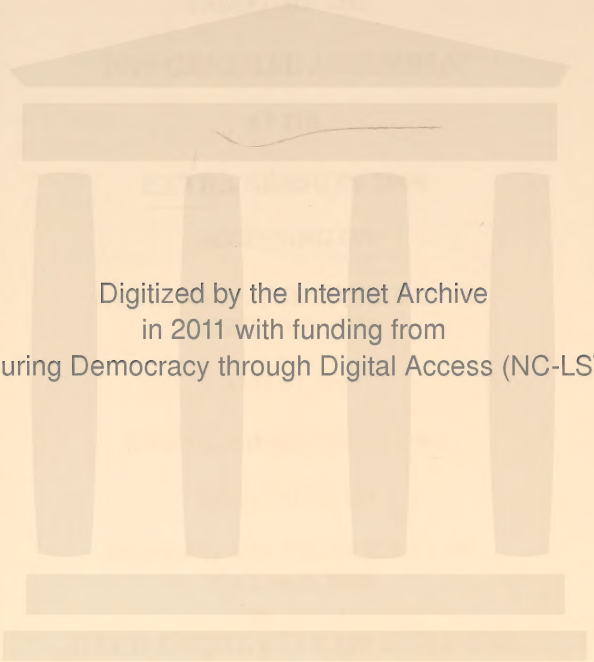
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STATE OF NORTH CAROLINA

SESSION LAWS AND RESOLUTIONS

PASSED BY THE

1999 GENERAL ASSEMBLY

AT ITS

EXTRA SESSION 2000

BEGINNING ON

WEDNESDAY, THE FIFTH DAY OF
APRIL, A.D. 2000

AND AT ITS

REGULAR SESSION 2000

BEGINNING ON

MONDAY, THE EIGHTH DAY OF
MAY, A.D. 2000

HELD IN THE CITY OF RALEIGH

ISSUED BY
SECRETARY OF STATE ELAINE F. MARSHALL

PUBLISHED BY AUTHORITY

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STATE OF NORTH CAROLINA

PRESIDING OFFICERS OF THE 1999 GENERAL ASSEMBLY

DENNIS A. WICKER	President of the Senate	Lee
JAMES B. BLACK	Speaker of the House of Representatives	Mecklenburg

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(Offices established by the Constitution, filled by election and comprising the Council of State)

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DENNIS A. WICKER	Lieutenant Governor	Lee
ELAINE F. MARSHALL	Secretary of State	Harnett
RALPH CAMPBELL, JR.	Auditor	Wake
HARLAN E. BOYLES	Treasurer	Wake
MICHAEL E. WARD	Superintendent of Public Instruction	Wake
MICHAEL F. EASLEY	Attorney General	Brunswick
JAMES A. GRAHAM	Commissioner of Agriculture	Rowan
HARRY E. PAYNE, JR.	Commissioner of Labor	New Hanover
JAMES E. LONG	Commissioner of Insurance	Alamance

The political affiliation of each legislator and member of the Council of State listed on this and the following pages is Democratic unless designated Republican by the abbreviation (R).

G.S. 147-16.1 authorizes publication of Executive Orders of the Governor in the Session Laws of North Carolina. Executive Orders from Governor Hunt are carried in the appendix to this volume.

1999 GENERAL ASSEMBLY

SENATE OFFICERS

Name	*Position*	*Address*
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MARC BASNIGHT	President Pro Tempore	Manteo, Dare County
FRANK W. BALLANCE, JR.	Deputy President Pro Tempore	Warrenton, Warren County
JANET B. PRUITT	Principal Clerk	Raleigh, Wake County
LEROY CLARK, JR.	Reading Clerk	Wendell, Wake County
CECIL GOINS	Sergeant-at-Arms	Raleigh, Wake County

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District	Name	County	Address
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2	FRANK W. BALLANCE, JR.	Warren	Warrenton
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6	R. L. MARTIN	Pitt	Bethel
7	LUTHER HENRY JORDAN, JR.	New Hanover	Wilmington
8	JOHN H. KERR III	Wayne	Goldsboro
9	Ed N. WARREN	Pitt	Greenville
10	ROY A. COOPER III	Nash	Rocky Mount
11	ALLEN H. WELLONS	Johnston	Smithfield
12	DON W. EAST (R)	Surry	Pilot Mountain
12	VIRGINIA FOXX (R)	Watauga	Banner Elk
13	WIB GULLEY	Durham	Durham
13	JEANNE HOPKINS LUCAS	Durham	Durham
14	BRAD MILLER	Wake	Raleigh
14	ERIC MILLER REEVES	Wake	Raleigh
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16	HOWARD N. LEE	Orange	Chapel Hill
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20	HAMILTON C. HORTON (R)	Forsyth	Winston-Salem
20	LINDA GARROU	Forsyth	Winston-Salem
21	HUGH WEBSTER (R)	Caswell	Yanceyville
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27	JOHN A. GARWOOD (R)	Wilkes	North Wilkesboro
27	KENNETH R. MOORE (R)	Caldwell	Lenoir
28	STEVE METCALF	Buncombe	Asheville
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32	KAY R. HAGAN	Guilford	Greensboro
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36	JOHN H. CARRINGTON (R)	Wake	Raleigh
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38	BETSY L. COCHRANE (R)	Davie	Advance
39	JAMES FORRESTER (R)	Gaston	Stanley
40	DANIEL G. CLODFELTER	Mecklenburg	Charlotte
41	LARRY SHAW	Cumberland	Fayetteville
42	ROBERT C. CARPENTER (R)	Macon	Franklin

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Name	*Position*	*Address*
JAMES B. BLACK	Speaker	Charlotte, Mecklenburg County
JOE HACKNEY	Speaker Pro Tempore	Chapel Hill, Orange County
DENISE G. WEEKS	Principal Clerk	Willow Springs, Wake County
ROBERT R. SAMUELS	Sergeant-at-Arms	Charlotte, Mecklenburg County

REPRESENTATIVES

District	Name	County	Address
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2	ZENO EDWARDS, JR.	Beaufort	Washington
3	SCOTT E. THOMAS	Craven	New Bern
4	JEAN R. PRESTON (R)	Carteret	Emerald Isle
4	RONALD L. SMITH	Carteret	New Port
5	HOWARD J. HUNTER, JR.	Northampton	Murfreesboro
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7	THOMAS C. HARDAWAY	Halifax	Enfield
8	EDITH D. WARREN	Pitt	Farmville
9	MARIAN N. MCLAWHORN	Pitt	Grifton
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13	DANIEL F. MCCOMAS (R)	New Hanover	Wrightsville Beach
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14	E. DAVID REDWINE	Brunswick	Ocean Isle Beach
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17	MARY E. MCALLISTER	Cumberland	Fayetteville
18	JOHN W. HURLEY	Cumberland	Fayetteville
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23	HENRY M. MICHAUX, JR.	Durham	Durham
23	GEORGE W. MILLER, JR.	Durham	Durham
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24	VERLA C. INSKO	Orange	Chapel Hill
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25	E. NELSON COLE	Rockingham	Reidsville
25	W.B. TEAGUE, JR. (R)	Alamance	Liberty
26	ALMA S. ADAMS	Guilford	Greensboro
27	STEPHEN W. WOOD (R)	Guilford	High Point
28	FLOSSIE BOYD-MCINTYRE	Guilford	Jamestown
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30	ARLIE F. CULP (R)	Randolph	Ramseur
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36	JAMES B. BLACK	Mecklenburg	Matthews
37	PAUL R. MCCRARY	Davidson	Lexington
38	HAROLD J. BRUBAKER (R)	Randolph	Asheboro
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40	REX L. BAKER (R)	Stokes	King
40	WILLIAM S. HIATT (R)	Surry	Mt. Airy

40	W. Eugene Wilson (R)	Watauga	Boone
41	John W. Brown (R)	Wilkes	Elkin
41	George M. Holmes (R)	Yadkin	Hamptonville
42	W. Franklin Mitchell (R)	Iredell	Olin
43	Mitchell S. Setzer (R)	Catawba	Catawba
44	Daniel W. Barefoot	Lincoln	Lincolnton
45	Cherie Killian Berry (R)	Catawba	Newton
45	Joe L. Kiser (R)	Lincoln	Vale
46	Charles F. Buchanan (R)	Mitchell	Green Mountain
46	Gregory J. Thompson (R)	Mitchell	Spruce Pine
47	Walter G. Church, Sr.	Burke	Valdese
48	Debbie A. Clary (R)	Cleveland	Cherryville
48	Andrew Dedmon	Cleveland	Earl
48	W. James Horn	Cleveland	Shelby
49	Mitch Gillespie (R)	McDowell	Marion
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51	Lanier M. Cansler (R)	Buncombe	Asheville
51	Martin L. Nesbitt	Buncombe	Asheville
51	Wilma M. Sherrill (R)	Buncombe	Asheville
52	R. Phillip Haire	Jackson	Sylva
52	Liston B. Ramsey	Madison	Marshall
53	James C. Carpenter (R)	Macon	Otto
54	Drew P. Saunders	Mecklenburg	Huntersville
55	W. Edwin McMahan (R)	Mecklenburg	Charlotte
56	Martha B. Alexander	Mecklenburg	Charlotte
57	Constance K. Wilson (R)	Mecklenburg	Charlotte
58	Ruth M. Easterling	Mecklenburg	Charlotte
59	W. Pete Cunningham	Mecklenburg	Charlotte
60	Beverly M. Earle	Mecklenburg	Charlotte
61	Charles B. Neely, Jr. (R)	Wake	Raleigh
62	David M. Miner (R)	Wake	Cary
63	Jane H. Mosley	Wake	Cary
64	Robert J. Hensley, Jr.	Wake	Raleigh
65	Rick Eddins (R)	Wake	Raleigh
66	Larry W. Womble	Forsyth	Winston-Salem
67	Warren C. Oldham	Forsyth	Winston-Salem
68	Trudi Walend (R)	Transylvania	Brevard
69	Jim Gulley (R)	Mecklenburg	Matthews
70	Milton F. Fitch, Jr.	Wilson	Wilson
71	Joe P. Tolson	Edgecombe	Pinetops
72	Gene G. Arnold (R)	Nash	Rocky Mount
73	P. Wayne Sexton, Sr. (R)	Rockingham	Stoneville
74	Julia Craven Howard (R)	Davie	Mocksville
75	Alex Warner	Cumberland	Hope Mills
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77	Carolyn B. Russell (R)	Wayne	Goldsboro
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79	William L. Wainwright	Craven	Havelock
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81	Timothy N. Tallent (R)	Cabarrus	Kannapolis
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83	W. Eugene McCombs (R)	Rowan	Faith
84	Michael P. Decker (R)	Forsyth	Walkertown
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86	William T. Culpepper, III	Chowan	Edenton
87	Donald A. Bonner	Robeson	Rowland
88	Theresa H. Esposito (R)	Forsyth	Winston-Salem
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89	Maggie M. Jeffus	Guilford	Greensboro
90	Richard L. Moore	Cabarrus	Kannapolis
91	Edgar V. Starnes (R)	Caldwell	Granite Falls
92	J. Russell Capps (R)	Wake	Raleigh
93	John M. Rayfield (R)	Gaston	Belmont
94	Jerry C. Dockham (R)	Davidson	Denton
95	N. Leo Daughtry (R)	Johnston	Smithfield
96	Edd Nye	Bladen	Elizabethtown
97	Jerry Braswell	Wayne	Goldsboro
98	Thomas E. Wright	New Hanover	Wilmington

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HOUSE SPEAKER JAMES B. BLACK, *COCHAIR*

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SEN. WALTER DALTON
SEN. VIRGINIA FOXX
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SESSION LAWS

OF THE

STATE OF NORTH CAROLINA

EXTRA SESSION 2000

S.B. 2 **SESSION LAW 2000-1ES**

AN ACT TO ALLOW THE STAY OF ENFORCEMENT OF CIVIL JUDGMENTS FOR DAMAGES IN ADDITION TO OR IN EXCESS OF COMPENSATORY DAMAGES UPON THE POSTING OF A BOND IN AN AMOUNT UP TO A MAXIMUM OF TWENTY-FIVE MILLION DOLLARS FOR THE AMOUNT OF NONCOMPENSATORY DAMAGES PLUS AN ADDITIONAL AMOUNT EQUAL TO THE AMOUNT OF THE AWARD FOR COMPENSATORY DAMAGES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 17A.

"Enforcement of Foreign Judgments for Noncompensatory Damages.

"*§ 1C-1750. Definitions.*

As used in this Article:

(1) 'Action' means (i) an action under Article 17 of this Chapter or (ii) any civil action in this State to enforce a foreign judgment in this State.

(2) 'Foreign judgment' means any judgment, decree, or order of a court of the United States or any other state.

"*§ 1C-1760. Enforcement of foreign judgments for noncompensatory damages.*

In any action in this State to enforce a foreign judgment directing the payment of money damages other than compensatory damages, or in excess of the compensatory damages, if the judgment debtor shows the court that an appeal from the foreign judgment is pending or that the time for taking an appeal has not expired, the court shall stay

enforcement of the foreign judgment until all available appeals are concluded or the time for taking all appeals has expired, upon requiring the same undertaking by the judgment debtor as would be required in the case of a judgment entered by a court of this State, subject to G.S. 1-289."

Section 2. G.S. 1-289 reads as rewritten:

"*§ 1-289. Undertaking to stay execution on money judgment.*

(a) If the appeal is from a judgment directing the payment of money, it does not stay the execution of the judgment unless a written undertaking is executed on the part of the appellant, by one or more sureties, to the effect that if the judgment appealed from, or any part thereof, is affirmed, or the appeal is dismissed, the appellant will pay the amount directed to be paid by the judgment, or the part of such amount as to which the judgment shall be affirmed, if affirmed only in part, and all damages which shall be awarded against the appellant upon the appeal. Whenever it is satisfactorily made to appear to the court that since the execution of the undertaking the sureties have become insolvent, the court may, by rule or order, require the appellant to execute, file and serve a new undertaking, as above. In case of neglect to execute such undertaking within twenty days after the service of a copy of the rule or order requiring it, the appeal may, on motion to the court, be dismissed with costs. Whenever it is necessary for a party to an action or proceeding to give a bond or an undertaking with surety or sureties, he may, in lieu thereof, deposit with the officer into court money to the amount of the bond or undertaking to be given. The court in which the action or proceeding is pending may direct what disposition shall be made of such money pending the action or proceeding. In a case where, by this section, the money is to be deposited with an officer, a judge of the court, upon the application of either party, may, at any time before the deposit is made, order the money deposited in court instead of with the officer; and a deposit made pursuant to such order is of the same effect as if made with the officer. The perfecting of an appeal by giving the undertaking mentioned in this section stays proceedings in the court below upon the judgment appealed from; except when the sale of perishable property is directed, the court below may order the property to be sold and the proceeds thereof to be deposited or invested, to abide the judgment of the appellate court.

(b) If the appellee in a civil action obtains a judgment that includes an award of noncompensatory damages of twenty-five million dollars ($25,000,000) or more, and the appellant seeks a stay of execution of the judgment within the period of time during which the appellant has the right to pursue appellate review, including discretionary review and certiorari, the amount of the undertaking for noncompensatory damages that the appellant is required to execute to stay execution of the judgment during the period of the appeal shall be twenty-five million dollars ($25,000,000). For the purposes of this subsection, the term 'noncompensatory damages' means that portion of money damages other than compensatory damages or in excess of

compensatory damages. Except as expressly provided in this subsection, this subsection shall not affect or limit the amount of the undertaking otherwise required by subsection (a) of this section.

(c) If the appellee proves by a preponderance of the evidence that the appellant for whom the undertaking has been limited under subsection (b) of this section is, for the purpose of evading the judgment, (i) dissipating its assets, (ii) secreting its assets, or (iii) diverting its assets outside the jurisdiction of the courts of North Carolina or the federal courts of the United States other than in the ordinary course of business, then the limitation in subsection (b) of this section shall not apply and the appellant shall be required to make an undertaking in the full amount otherwise required by this section."

Section 3. The provisions of this act are severable. If any portion of this act is declared unconstitutional or the application of any part of this act to any person or circumstance is held invalid, the remaining portions of the act and their applicability to any person or circumstance shall remain valid and enforceable.

Section 4. This act is effective when it becomes law and applies to judgments filed or entered in this State on or after the effective date, without regard to the date on which the foreign judgment was rendered in the foreign state.

In the General Assembly read three times and ratified this the 5th day of April, 2000.

Became law upon approval of the Governor at 2:00 p.m. on the 5th day of April, 2000.

REGULAR SESSION 2000

S.B. 1076 **SESSION LAW 2000-2**

AN ACT TO REPEAL THE PROPERTY TAX ON CERTAIN VEHICLES LEASED OR RENTED UNDER RETAIL SHORT-TERM LEASES OR RENTALS AND TO REPLACE THE TAX REVENUE WITH A LOCAL TAX ON GROSS RECEIPTS DERIVED FROM RETAIL SHORT-TERM LEASES OR RENTALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is amended by adding a new subdivision to read:

"(41) A vehicle that is offered at retail for short-term lease or rental and is owned or leased by an entity engaged in the business of leasing or renting vehicles to the general

public for short-term lease or rental. For the purposes of this subdivision, the term 'short-term lease or rental' shall have the same meaning as in G.S. 105-187.1. A gross receipts tax as set forth by G.S. 153A-156 and G.S. 160A-215.1 is substituted for and replaces the ad valorem tax previously levied on these vehicles."

Section 2. Chapter 153A of the General Statutes is amended by adding a new section to read:

"*§ 153A-156. Gross receipts tax on short-term leases or rentals.*

(a) As a substitute for and in replacement of the ad valorem tax, which is excluded by G.S. 105-275(41), a county may levy a gross receipts tax on the gross receipts from the short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed one and one-half percent (1.5%) of the gross receipts from such short-term leases or rentals.

(b) If a county enacts the substitute and replacement gross receipts tax pursuant to this section, any entity required to collect the tax shall include a provision in each retail short-term lease or rental agreement noting that the percentage amount enacted by the county of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. For purposes of this section, the transaction giving rise to the tax shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle. The tax shall be collected at the time of lease or rental and placed in a segregated account until remitted to the county.

(c) The collection and use of taxes under this section are not subject to sales tax and are not included in the gross receipts of the entity. The proceeds collected under this section belong to the county and are not subject to creditor liens against the entity.

(d) A tax levied under this section shall be collected by the county but otherwise administered in the same manner as the tax levied under G.S. 105-164.4(a)(2).

(e) The following definitions apply in this section:

(1) Vehicle. -- Any of the following:

a. A motor vehicle of the private passenger type, including a passenger van, minivan, or sport utility vehicle.

b. A motor vehicle of the cargo type, including cargo van, pickup truck, or truck with a gross vehicle weight of 26,000 pounds or less used predominantly in the transportation of property for other than commercial freight and that does not require the operator to possess a commercial drivers license.

c. A trailer or semitrailer with a gross vehicle weight of 6,000 pounds or less.

(2) Short-term lease or rental. -- Defined in G.S. 105-187.1(4).

(f) The penalties and remedies that apply to local sales and use taxes levied under Subchapter VIII of this Chapter apply to a tax levied under this section. The county board of commissioners may exercise

any power the Secretary of Revenue may exercise in collecting local sales and use taxes."

Section 3. Chapter 160A of the General Statutes is amended by adding a new section to read:

"*§ 160A-215.1. Gross receipts tax on short-term leases or rentals.*

(a) As a substitute for and in replacement of the ad valorem tax, which is excluded by G.S. 105-275(41), a city may levy a gross receipts tax on the gross receipts from the short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed one and one-half percent (1.5%) of the gross receipts from such short-term leases or rentals. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. 160A-211.

(b) If a city enacts the substitute and replacement gross receipts tax pursuant to this section, any entity required to collect the tax shall include a provision in each retail short-term lease or rental agreement noting that the percentage amount enacted by the city of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. For purposes of this section, the transaction giving rise to the tax shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle. The tax shall be collected at the time of lease or rental and placed in a segregated account until remitted to the city.

(c) The collection and use of taxes under this section are not subject to sales tax and are not included in the gross receipts of the entity. The proceeds collected under this section belong to the city and are not subject to creditor liens against the entity.

(d) A tax levied under this section shall be collected by the city but otherwise administered in the same manner as the tax levied under G.S. 105-164.4(a)(2).

(e) The following definitions apply in this section:

(1) Vehicle. -- Any of the following:

a. A motor vehicle of the private passenger type, including a passenger van, minivan, or sport utility vehicle.

b. A motor vehicle of the cargo type, including cargo van, pickup truck, or truck with a gross vehicle weight of 26,000 pounds or less used predominantly in the transportation of property for other than commercial freight and that does not require the operator to possess a commercial drivers license.

c. A trailer or semitrailer with a gross vehicle weight of 6,000 pounds or less.

(2) Short-term lease or rental. -- Defined in G.S. 105-187.1.

(f) The penalties and remedies that apply to local sales and use taxes levied under Subchapter VIII of this Chapter apply to a tax levied under this section. The governing body of the city may exercise any power the Secretary of Revenue may exercise in collecting local sales and use taxes."

Section 4. The Fiscal Research Division of the North Carolina General Assembly shall compare the revenue generated statewide by

the substitute and replacement gross receipts tax authorized by this act with the revenue that would have been generated by an ad valorem tax. The Fiscal Research Division shall report its findings to the 2003 Session of the 2003-2004 General Assembly.

Section 5. Section 1 of this act becomes effective for taxes imposed for taxable years beginning on or after July 1, 2000. The remainder of this act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 11th day of May, 2000.

Became law upon approval of the Governor at 8:30 a.m. on the 17th day of May, 2000.

S.B. 912 **SESSION LAW 2000-3**

AN ACT (1) TO AUTHORIZE THE ISSUANCE OF THREE BILLION ONE HUNDRED MILLION DOLLARS GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS FOR CAPITAL IMPROVEMENTS FOR THE UNIVERSITY OF NORTH CAROLINA AND GRANTS TO COMMUNITY COLLEGES FOR CAPITAL IMPROVEMENTS AND (2) TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE SPECIAL OBLIGATION BONDS FOR IMPROVEMENTS TO THE FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA AND FOR THE UNIVERSITY OF NORTH CAROLINA HOSPITALS AT CHAPEL HILL AND OTHER FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the Michael K. Hooker Higher Education Facilities Financing Act.

Section 1.1. The General Assembly finds that although The University of North Carolina is one of the State's most valuable assets, the current facilities of the University have been allowed to deteriorate due to decades of neglect and have unfortunately fallen into a state of disrepair because of inadequate attention to maintenance. It is the intent of the General Assembly to reverse this trend and to provide a mechanism to assure that the University's capital assets are adequately maintained. The General Assembly commits to responsible stewardship of these assets to protect their value over the years, as follows:

(1) The Board of Governors of The University of North Carolina shall require each constituent and affiliated institution to monitor the condition of its facilities and their needs or repair and renovation, and to assure that all necessary maintenance is carried out within funds available.

(2) The Board of Governors shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee on the condition of the University's capital facilities, the repair, renovation, and maintenance projects being undertaken, and all needs for additional funding to maintain the facilities.

(3) It is the intent of the General Assembly to assure that adequate oversight, funding, and accountability are continually provided so that the capital facilities of the University are properly maintained to preserve the level of excellence the citizens of this State deserve. To this end, the Joint Legislative Education Oversight Committee shall report to the General Assembly annually its recommendations for legislative changes to implement this policy.

Section 1.2. The General Statutes are amended by adding a new Chapter to read:

"Chapter 116D.

"Higher Education Bonds.

"ARTICLE 1.

"General Provisions.

"§ *116D-1. Definitions.*

The following definitions apply in this Chapter:

(1) Board of Governors. -- The Board of Governors of the University.

(2) Capital facility. -- Any one or more of the following for the University or for a community college:

a. One or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment and furnishings in connection therewith.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

The term includes, without limitation, classroom buildings, laboratory buildings, research facilities, libraries, physical education facilities, continuing education centers, student cafeterias, and activity facilities, including sports facilities, student and faculty housing facilities, and administrative office facilities.

(3) Cost. -- Any of the following in financing the cost of capital facilities and special obligation bond projects, as authorized by this Chapter:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities and special obligation bond projects, including the acquisition of land, rights-of-way, easements,

franchises, equipment, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility or special obligation bond project.

b. The cost of engineering, architectural, and other consulting services as may be required.

c. The cost of providing personnel to ensure effective project management.

d. Finance charges, reserves for debt service, and interest prior to and during construction.

e. Administrative expenses and charges incurred by the State in connection with the administration of a bond program created under this Chapter.

f. The cost of bond insurance, investment contracts, credit enhancement, and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of bond and note issuance.

g. The cost of reimbursing the State for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Chapter.

(4) Credit facility. -- An agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States, and providing for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(5) Fiscal period. -- A fiscal biennium or a fiscal year of the fiscal biennium.

(6) Fiscal year. -- The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(7) Par formula. -- A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds or notes, including:

a. A provision providing for an adjustment so that the purchase price of bonds or notes in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. A provision that the State Treasurer determines is consistent with this Chapter and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.

(8) Securities issued under this Chapter. -- Any of the following:

a. University improvement general obligation bonds, refunding bonds, notes, and refunding notes issued under Article 2 of this Chapter.

b. Special obligation bonds, bond anticipation notes, and refunding bonds issued under Article 3 of this Chapter.

c. Community college general obligation bonds, refunding bonds, notes, and refunding notes issued under Article 4 of this Chapter.

(9) State. -- The State of North Carolina.

(10) State Treasurer. -- The incumbent Treasurer, from time to time, of the State.

(11) University. -- The University of North Carolina and its constituent and affiliated institutions, including, without limitation, the University of North Carolina Center for Public Television, the University of North Carolina Health Care System, the North Carolina School of Science and Mathematics, and the North Carolina Arboretum.

"§ *116D-2. General provisions.*

(a) Signatures. -- Should any officer whose signature or facsimile signature appears on securities issued under this Chapter cease to be that officer before the delivery of the securities, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the securities. Securities issued under this Chapter may bear the facsimile signatures of persons, who at the actual time of the execution of the securities were the proper officers to sign any security although at the date of the security those persons may not have been officers.

(b) Tax Exemption. -- Securities issued under this Chapter shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the securities, and franchise taxes. The interest on the securities is not subject to taxation as income.

(c) Investment Eligibility. -- Securities issued under this Chapter are securities in which all of the following may invest, including

capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions, insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees, and other fiduciaries. Securities issued under this Chapter are securities which may properly and legally be deposited with and received by any officer or agency of the State or a political subdivision of the State for any purpose for which the deposit of bonds or notes of the State or any political subdivision is now or may later be authorized by law.

(d) Inconsistent Laws. -- All general, special, or local laws that are inconsistent with this Chapter do not apply to this Chapter.

"§ *116D-3. Reports.*

(a) Board of Governors. -- The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations by September 15 of each year, and more frequently as the Commission requests, on the following:

(1) University Improvement General Obligation Bonds. -- The Board of Governors shall report on projects funded by university improvement general obligation bonds under Article 2 of this Chapter, including the total project costs, the amount to be funded from the bonds, the expenditures to date from the bonds and other sources, and the percentage of each project completed. Each annual report shall include estimated operating costs for each project begun in the preceding fiscal year, including proposed sources of funds and anticipated dates for occupancy. Operating costs shall be projected for a period of at least 20 years from the date of anticipated project completion.

(2) Special Obligation Bonds. -- The Board of Governors shall report on special obligation bonds issued under Article 3 of this Chapter, including the amount of debt, itemized for each institution of the University, by bond issue, and by project. The report shall include schedules of debt service requirements and actual payments, as well as evidence of compliance with additional financial covenants required by bond documents. The report shall identify the trends and current revenue streams of the sources of obligated resources pledged for each bond issue.

(b) Treasurer. -- Upon issuance of university improvement general obligation bonds under Article 2 of this Chapter or community college general obligation bonds under Article 4 of this Chapter, the Treasurer shall forward a schedule of required payments of principal and interest over the life of the bonds to the Director of the Budget, with copies to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The Treasurer shall report to the Joint Legislative Commission on Governmental Operations by September 15 of each year, and more frequently as the

Commission requests, on the university improvement general obligation bonds issued under Article 2 of this Chapter and community college general obligation bonds issued under Article 4 of this Chapter, including the annual debt service requirements over the remainder of the life of the bonds.

(c) Community Colleges. -- The Community Colleges System Office shall report quarterly to the Joint Legislative Education Oversight Committee on the projects funded from community college general obligation bonds. Each report shall include the total project costs, the amount to be funded from the bonds, the expenditures to date from the bonds and other sources, and the percentage of each project completed.

"ARTICLE 2.

"General Obligation Bonds for Financing Capital Facilities for The University of North Carolina.

"§ *116D-6. Short title.*

This Article may be cited as the University Improvement General Obligation Bonds Finance Act.

"§ *116D-7. Definitions.*

The following definitions apply in this Article:

(1) Bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(2) Notes. -- Notes issued under this Article.

(3) University improvement general obligation bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

"§ *116D-8. Authorization of bonds and notes.*

Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing university improvement general obligation bonds in the election held as provided by law, the State Treasurer may, by and with the consent of the Council of State, issue and sell, at one time or from time to time, university improvement general obligation bonds of the State to be designated 'State of North Carolina University Improvement General Obligation Bonds', with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed two billion five hundred million dollars ($2,500,000,000). The bonds and notes shall be issued in the following years up to the following amounts:

Fiscal Year	Aggregate Amount
2000-2001	$201,600,000
2001-2002	241,900,000
2002-2003	483,900,000
2003-2004	483,900,000
2004-2005	564,500,000
2005-2006	524,200,000

If less than the aggregate amount of bonds or notes authorized to be issued in a fiscal year is issued in that fiscal year, the balance for that fiscal year may be issued in any subsequent fiscal year. Refunding bonds and notes issued pursuant to G.S. 116D-11(f) shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this Article.

The proceeds of bonds or notes issued under this Article shall be applied to finance the cost of improvement, construction, and acquisition of capital facilities for the University or to refund any outstanding bonds or notes issued under this Article. The capital facilities to be improved, constructed, or acquired with the proceeds of bonds or notes shall be determined as provided in G.S. 116D-9.

"§ 116D-9. Designation of capital facilities and preconditions to bond issuance.

The capital facilities to be financed in whole or in part with the proceeds of university improvement general obligation bonds shall be set forth in legislation enacted from time to time by the General Assembly. This legislation shall also provide for voter approval of the bonds to finance the capital facilities and shall become effective only upon approval by the voters. The proceeds of university improvement general obligation bonds shall not be expended to pay the costs of any capital facilities other than those set forth in that legislation.

"§ 116D-10. Faith and credit.

The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. The State retains the right to amend any provision of this Article to the extent it does not impair any contractual right of a bond owner.

"§ 116D-11. Issuance of bonds and notes.

(a) Terms and Conditions. -- Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 25 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. -- Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile of the Seal impressed or imprinted on them. If

bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this Article.

(c) Manner of Sale; Expenses. -- Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. -- The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys which may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. -- By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment or principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes as authorized in this Article.

Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. -- By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding bonds or notes issued pursuant to this Article and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) University Improvement Bonds Fund. -- The proceeds of university improvement general obligation bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated 'University Improvement Bonds Fund'. Moneys in the University Improvement Bonds Fund shall be used for the purposes set forth in this Article.

Any additional moneys that may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any university improvements authorized by this Article may be placed by the State Treasurer in the University Improvement Bonds Fund or in a separate account or fund and shall be disbursed, to the extent

permitted by the terms of the grant or grants, without regard to any limitations imposed by this act.

The proceeds of university improvement general obligation bonds and notes may be used with any other moneys made available by the General Assembly for the making of university improvements, including the proceeds of any other State bond issues, whether previously made available or which may be made available after the effective date of this Article. The proceeds of university improvement bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this Article for university improvements shall be disbursed for the purposes provided in this Article upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

"*§ 116D-12. Variable rate demand bonds and notes.*

(a) In fixing the details of bonds and notes, the State Treasurer may provide that the bonds and notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State.

(2) Be additionally supported by a credit facility.

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity.

(4) Bear interest at rates that may vary from any periods of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, any variations as may be permitted pursuant to a par formula.

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium, or for any other reason, then the amount of authorized but unissued bonds or notes during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the

excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"*§ 116D-13. Other agreements.*

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this Article as the State Treasurer considers necessary.

"ARTICLE 3.

"Special Obligation Bonds for Improvements to the Facilities of The University of North Carolina.

"*§ 116D-21. Purpose.*

The purpose of this Article is to authorize the Board of Governors of The University of North Carolina to issue special obligation bonds, payable from obligated resources, but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision of the State, to pay the cost, in whole or in part, of improvements to the facilities of the University.

"*§ 116D-22. Definitions.*

The following definitions apply in this Article:

(1) Existing facilities. -- Buildings and facilities then existing that generate income or receipts to the Board of Governors that are pledged, under the provisions of a resolution authorizing the issuance of the special obligation bonds under this Article, to the payment of the bonds.

(2) Institution. -- Each of the institutions enumerated in G.S. 116-2, and any affiliated institutions of the University, including, without limitation, the University of North Carolina Center for Public Television, the University of North Carolina Health Care System, the North Carolina School of Science and Mathematics, and the North Carolina Arboretum.

(3) Obligated resources. -- Any sources of income or receipts of the Board of Governors or the institution at which a special obligation bond project is or will be located that are designated by the Board as the security and source of payment for bonds issued under this Article to finance a special obligation bond project, including, without limitation, any of the following:

a. Rents, charges, or fees to be derived by the Board of Governors or the institution from any activities conducted at the institution.

b. Earnings on the investment of the endowment fund of the institution at which a special obligation project will be located, to the extent that the use of the earnings will not

violate any lawful condition placed by the donor upon the part of the endowment fund that generates the investment earnings.

c. Funds to be received under a contract or a grant agreement, including 'overhead costs reimbursement' under a grant agreement, entered into by the Board of Governors or the institution to the extent the use of the funds is not restricted by the terms of the contract or grant agreement or the use of the funds as provided in this Article does not violate the restriction.

Obligated resources do not include funds appropriated to the Board of Governors or the institution from the General Fund by the General Assembly from funds derived from general tax and other revenues of the State, and obligated resources do not include tuition payment by students.

(4) Special obligation bonds. -- Bonds issued under this Article to finance the cost of a special obligation project, which bonds are secured by and payable from obligated resources designated by the Board of Governors at the time the issuance of the bonds is authorized in accordance with this Article.

(5) Special obligation bond project. -- Any capital facilities located or to be located at an institution for the purpose of carrying out the mission of that institution and designated specifically by the Board of Governors as a 'special obligation bond project' for purposes of this Article. A special obligation bond project need not necessarily consist of buildings or facilities that are expected to generate 'self-liquidating revenues' to the Board of Governors or the institution from direct rentals, charges, or fees from the services provided by the building or facility, and may include facilities such as classroom buildings, administration buildings, research facilities, libraries, and equipment that do not produce direct, or indirect, income to the Board of Governors or the institution.

"§ 116D-23. Credit and taxing power of State not pledged; statement on face of bonds.

Special obligation bonds issued under this Article shall not constitute a debt or liability of the State or any political subdivision of the State or a pledge of the faith and credit of the State or of any political subdivision of the State. Special obligation bonds shall be secured solely by the obligated resources pledged to their payment. All of the special obligation bonds shall contain on their face a statement to the effect that neither the State nor the Board of Governors is obligated to pay the bonds or the interest on the bonds except from the obligated resources pledged for payment and that neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality of the State is pledged to the payment of the principal of or the interest on the bonds. The issuance

of special obligation bonds under this Article does not directly or indirectly or contingently obligate the State or any political subdivision of the State to levy or to pledge any taxes for the bonds.

"*§ 116D-24. General powers of Board of Governors.*

The Board of Governors is authorized, subject to the requirements of this Article, to do all of the following:

(1) Determine the location and character of any special obligation bond project, to acquire, construct, and provide the project, and to maintain, repair, and operate and enter into contracts for the management, lease, use, or operation of all or any portion of any special obligation bond project and any existing facilities.

(2) Issue special obligation bonds to pay all or any part of the cost of a special obligation bond project, and to fund or refund any bonds previously issued by the Board of Governors to finance facilities designated as a special obligation bond project.

(3) Fix and revise from time to time and charge and collect fees, rates, rents, charges, and other income for the use of and for the services furnished by the institution that are designated as obligated resources in connection with a special obligation bond issue.

(4) Establish and enforce, and to agree through any resolution or trust agreement authorizing or securing bonds under this Article to make and enforce, rules for the use of and services rendered by the institution of the income or receipts to be obtained from the use or services designated as obligated resources in connection with a special obligation bond issue.

(5) Acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties and to lease all or any part of a special obligation bond project and any existing facilities for any periods of years, not exceeding 40 years, upon any terms and conditions as the Board of Governors determines, subject to the provisions of G.S. 143-341.

(6) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and any other employees and agents as may be necessary in its judgment in connection with a special obligation bond project and existing facilities, and to fix their compensation.

(7) Enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article.

(8) Receive and accept from any federal, State, or other public agency and any private agency, person, or other entity donations, loans, grants, aid, or contributions of any money, property, labor, or other things of value for a special

obligation bond project or any other services provided by the institution that is designated as the obligated resource in connection with a special obligation bond issue, and to agree to apply and use them in accordance with the terms and conditions under which they are provided.

(9) Do all acts and things necessary or convenient to carry out the powers granted by this Article.

"§ *116D-25. Consultation with the Joint Legislative Commission on Governmental Operations.*

Whenever this Article requires the approval of the Director of the Budget of an action, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations before giving approval.

"§ *116D-26. Issuance of special obligation bonds and bond anticipation notes.*

(a) Authority. -- The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing a special obligation project. Before issuing special obligation bonds, the Board of Governors shall first adopt a resolution (i) setting forth the designation by the Board of Governors that the buildings or facilities to be financed by the bond issue are the special obligation bond project being financed and (ii) designating the obligated resources that will secure and be the source of payment of the special obligation bonds to be issued. The Board of Governors shall not issue any special obligation bonds unless the Board of Governors finds that sufficient obligated resources are reasonably expected to be available (i) to pay the principal and interest on the special obligation bonds proposed to be issued, (ii) to create and maintain any reserves for the payment of the special obligation bonds, to the extent the Board of Governors is required to maintain reserves for this purpose by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds, and (iii) to provide for the maintenance and operation of the facilities that are to generate the obligated resources to the extent the Board of Governors is required to maintain those facilities by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds. Notwithstanding any other provision of this Article, the proceeds of special obligation bonds to be secured by obligated resources derived from the operation of or activities at one institution may not be applied to finance a special obligation project to be located at another institution.

(b) Approval Required. -- The Board of Governors shall not issue any special obligation bonds for a project at an institution unless the board of trustees of that institution has approved the issuance of bonds for that project. The Board of Governors shall not issue special obligation bonds under this Article until the effective date of legislation enacted by the General Assembly authorizing the undertaking of the

special obligation bond project to be financed and fixing the maximum aggregate principal amount of special obligation bonds that shall be issued for that purpose. In submitting proposed special obligation bond projects to the General Assembly for approval, the Board of Governors shall submit information on the need for each project, project costs, estimates of increased operating costs upon completion, estimated debt service requirements, and the sources and amounts of obligated resources to be pledged for the repayment of the bonds. If the obligated resources to repay the bonds or to operate the proposed project potentially involve increased costs to students or to the General Fund, these costs shall be identified in the Board of Governors' submission.

Except as provided in this Article, special obligation bond projects may be undertaken, special obligation bonds may be issued, and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things which are specifically required by this Article.

(c) Term; Form. -- The special obligation bonds of each issue shall be dated, shall mature at any times not exceeding 25 years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity at the option of the Board, at any prices and under any terms and conditions as may be fixed by the Board prior to the issuance of the special obligation bonds. The Board of Governors shall determine the form and manner of execution of the special obligation bonds and shall fix the denominations of the special obligation bonds and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any special obligation bonds issued under the provisions of this Article, all special obligation bonds shall be negotiable instruments under the laws of this State, subject only to the provisions for registration in a resolution authorizing the issuance of the special obligation bonds or a trust agreement securing the bonds. The Board of Governors may sell the special obligation bonds in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

(d) Proceeds; Additional Bonds. -- The proceeds of the special obligation bonds of each issue shall be used solely for the purpose for which the bonds have been authorized and shall be disbursed in the manner and under such restrictions, if any, as the Board of Governors may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing them. Unless otherwise provided in the authorizing resolution or in the trust agreement securing the special obligation bonds, if the proceeds of the special obligation bonds, by error of estimates or otherwise, are less than the cost of the special obligation bond project, additional bonds may in like manner

be issued to provide the amount of the deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of special obligation bonds, and any trust agreement securing them, may also contain limitations upon the issuance of additional special obligation bonds as the Board of Governors considers proper, and the additional special obligation bonds must be issued under the restrictions and limitations prescribed by the resolution or trust agreement.

(e) Temporary Bonds; Notes. -- Before preparing definitive bonds, the Board of Governors may, under like restrictions, issue interim receipts or temporary bonds exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which become mutilated, destroyed, or lost.

The Board of Governors may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing special obligation bonds for the financing of special obligation bond projects covered under this Article. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of the special obligation bonds.

(f) Bond Anticipation Notes. -- The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, bond anticipation notes of the Board of Governors in anticipation of the issuance of special obligation bonds authorized by this Article. The principal of and the interest on these notes shall be payable solely from the proceeds of special obligation bonds or renewal notes or, in the event bond or renewal note proceeds are not available, from the obligated resources designated for their payment. The notes of each issue shall be dated, shall mature at any times not exceeding two years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity, at the option of the Board of Governors, at any prices and under any terms and conditions as may be fixed by the Board of Governors prior to the issuance of the notes. The Board shall determine the form and the manner of execution of the notes and shall fix the denominations of the notes and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all notes shall be negotiable instruments under the laws of this State, subject only to the provisions for registration in a resolution authorizing the issuance of the notes or any trust agreement securing the bonds in anticipation of which the notes are being issued. The Board of Governors may sell the notes in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

The proceeds of the notes of each issue shall be used solely for the purpose for which the special obligation bonds in anticipation of which the notes are being issued have been authorized, and the note proceeds shall be disbursed in any manner and under any restrictions as the Board of Governors may provide in the resolution authorizing the issuance of the notes or bonds or in the trust agreement securing the special obligation bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the special obligation bonds in anticipation of which the notes are being authorized, may also contain limitations upon the issuance of additional notes as the Board of Governors considers proper, and such additional notes shall be issued under the restrictions and limitations prescribed by the resolution or trust agreement. The Board may also provide for the replacement of any notes which shall become mutilated, destroyed, or lost.

Except as provided in this Article, notes may be issued under this Article and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

Unless the context indicates otherwise, the word 'bonds', wherever used in this Article, include the words 'bond anticipation notes'.

"§ 116D-27. Trust agreement; money received deemed trust funds; insurance; remedies.

(a) Trust Agreement Securing Bonds. -- In the discretion of the Board of Governors and subject to the approval of the Director of the Budget, any special obligation bonds issued under this Article may be secured by a trust agreement by and between the Board of Governors and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The trust agreement or the resolution providing for the issuance of special obligation bonds may pledge or assign the obligated resources designated as security for the special obligation bonds, but shall not convey or mortgage any property of the institution. The trust agreement or resolution providing for the issuance of special obligation bonds may contain provisions for protecting and enforcing the rights and remedies of the holders of the special obligation bonds that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the Board of Governors in relation to the acquisition, construction, or provision of any of the charging and collecting of any rates, fees, or charges that have been designated as obligated resources, the maintenance, repair, operation, and insurance of any property of the institution, and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depositary of the proceeds of special obligation bonds or funds securing special obligation bonds to furnish any indemnifying

bonds or to pledge any securities as may be required by the Board of Governors. A trust agreement or resolution may set forth the rights and remedies of the holders of the special obligation bonds and the rights, remedies, and immunities of the trustee or trustees, if any, and may restrict the individual right of action by the holders. In addition to the foregoing, a trust agreement or resolution may contain other provisions the Board of Governors considers reasonable and proper for the security of the holders. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be treated as a part of the cost of the special obligation bond projects for which the special obligation bonds are issued or as an expense of operation of the special obligation bond project.

(b) Trust Funds. -- All moneys received pursuant to the authority of this Article, whether as proceeds from the sale of bonds, or as obligated resources, are trust funds to be held and applied solely as provided in this Article. The Board of Governors may provide for the payment of all or part of the proceeds of the sale of the special obligation bonds and the obligated resources to any officer, board, or depositary that it may designate for their custody, and may provide for their method of disbursement, with any safeguards and restrictions it may determine. Any officer with whom, or any bank or trust company with which, moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this Article, subject to any requirements provided in this Article and in the resolution or trust agreement, authorizing or securing the special obligation bonds.

(c) Insurance. -- Notwithstanding the provisions of any other law, the Board of Governors may carry insurance on any special obligation bond projects and any existing facilities in any amounts and covering any risks it considers advisable.

(d) Remedies. -- Any holder of special obligation bonds issued under this Article and the trustees under a trust agreement, except to the extent the rights given in this section may be restricted by the trust agreement or the resolution authorizing the issuance of the special obligation bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the State or granted under this Article or under the trust agreement or resolution, and may enforce and compel the performance of all duties required by this Article or by the trust agreement or resolution to be performed by the Board of Governors or by any of its officers, including the fixing, charging, and collecting of obligated resources.

"*§ 116D-28. Fixing and collecting obligated resources.*

(a) Board to Provide Sufficient Resources. -- For the purpose of aiding in the financing of a special obligation bond project and to provide security to the owners of the special obligation bonds issued to finance the special obligation bond project, the Board of Governors is authorized, to the extent the generation of the obligated resources is in the control of the Board, to fix, revise from time to time, charge, and

collect the rents, charges, fees, or other revenues constituting the obligated resources. Fees and other revenue sources constituting obligated resources may be imposed or increased only with the approval of the Board of Governors. As long as any special obligation bonds issued under this Article and payable from those obligated resources are outstanding, the obligated resources, to the extent within the control of the Board of Governors, shall be so fixed and adjusted, with relation to other funds available, as to provide funds pursuant to the requirements of the resolution or trust agreement authorizing or securing the special obligation bonds and at least sufficient to pay the principal of and the interest on the special obligation bonds as they become due and payable, to assure the continued collection of the obligated resources, and to create and maintain reserves for these purposes. A sufficient amount of the obligated resources, except any part that may be necessary to pay the cost of maintenance, repair, and operation, and to provide reserves for these purposes and for renewals, replacements, extensions, enlargements, and improvements as may be provided for in the resolution authorizing the issuance of the special obligation bonds or in the trust agreement securing the same, shall be set aside at regular intervals as may be provided in the resolution or trust agreement authorizing the issuance of the special obligation bonds in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on the special obligation bonds as they become due and the redemption price or the purchase price of special obligation bonds retired by call or purchase as provided in the resolution or trust agreement. This pledge shall be valid and binding from the time it is made, the obligated resources so pledged and thereafter received by the Board of Governors shall immediately be subject to the lien of the pledge without any physical delivery of the pledge or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Board of Governors, irrespective of whether the parties have notice of the pledge. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Board of Governors. The use and disposition of moneys to the credit of the sinking fund shall be subject to the provisions of the resolution authorizing the issuance of the special obligation bonds or of the trust agreement securing the bonds.

(b) State Pledge. -- The State pledges to, and agrees with, the holders of any special obligation bonds or notes issued by the Board of Governors pursuant to this Article that as long as any of the special obligation bonds or notes are outstanding and unpaid, the State will not limit or alter the rights vested in the Board of Governors at the time of issuance of the special obligation bonds or notes to set the terms and conditions of the special obligation bonds or notes and to fulfill the terms of any agreements made with the bondholders or noteholders. The State shall in no way impair the rights and remedies of the bondholders or noteholders until the special obligation bonds or

notes and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders are fully paid, met, and discharged.

"§ *116D-29. Vesting powers in committee.*

The Board of Governors may authorize its budget and finance committee to sell any special obligation bonds which the Board has, with the approval of the Director of the Budget, authorized to be issued under this Article in any manner and under any limitations or conditions as the Board prescribes and to perform other functions under this Article the Board determines.

"§ *116D-30. Refunding bonds.*

The Board of Governors may, subject to the approval of the Director of the Budget, issue from time to time refunding bonds for the purpose of refunding any bonds by the Board under this Article or under any Article of Chapter 116 of the General Statutes, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds refunded. The Board of Governors is further authorized, subject to the approval of the Director of the Budget, to issue from time to time refunding bonds for the combined purpose of (i) refunding any bonds issued by the Board under this Article or under any Article of Chapter 116 of the General Statutes, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds, and (ii) paying all or any part of the cost of acquiring or constructing any additional special obligation bond projects.

This Article, as applicable, governs the issuance of refunding bonds, their maturities and other details, the rights and remedies of their holders, and the rights, powers, privileges, duties, and obligations of the Board of Governors with respect to them.

"§ *116D-31. Additional and alternative method.*

This Article provides an additional and alternative method for the doing of the things authorized and is supplemental and additional to powers conferred by other laws, including G.S. 116-175 to G.S. 116-185, inclusive and G.S. 116-197 and G.S. 116-198, and is not in derogation of or repealing any powers now existing under any other law, whether general, special, or local. The issuance of special obligation bonds or refunding bonds under this Article, however, need not comply with the requirements of any other law applicable to the issuance of bonds.

"ARTICLE 4.

"Community Colleges Facilities General Obligation Finance Act.

"§ *116D-41. Short title.*

This Article may be cited as the Community College Facilities General Obligation Finance Act.

"§ *116D-42. Definitions.*

The following definitions apply in this Article:

(1) Bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(2) Community college. -- Defined in G.S. 115D-2.

(3) Community college general obligation bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(4) Community Colleges System Office. -- The North Carolina Community Colleges System Office, created by Article 1 of Chapter 115D of the General Statutes, or if the Community Colleges System Office is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this Article to the Community Colleges System Office.

(5) Notes. -- Notes issued under this Article.

"*§ 116D-43. Authorization of bonds and notes.*

Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing community college general obligation bonds in the election held as provided by law, and upon the application of the Community Colleges System Office, the State Treasurer may, by and with the consent of the Council of State, issue and sell, at one time or from time to time, community college general obligation bonds of the State to be designated 'State of North Carolina Community College General Obligation Bonds', with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed six hundred million dollars ($600,000,000). The bonds and notes shall be issued in the following years up to the following amounts:

Fiscal Year	Aggregate Amount
2000-2001	$ 48,400,000
2001-2002	58,100,000
2002-2003	116,100,000
2003-2004	116,100,000
2004-2005	135,500,000
2005-2006	125,800,000

If less than the aggregate amount of bonds or notes authorized to be issued in a fiscal year is issued in that fiscal year, the balance for that fiscal year may be issued in any subsequent fiscal year. Refunding bonds and notes issued pursuant to G.S. 116D-46(f) shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this Article.

The proceeds of bonds or notes issued under this Article shall be applied to finance the cost of grants to be made by the State to community colleges to finance the cost of capital facilities for the community college or to refund any outstanding bonds or notes issued under this Article. The capital facilities to be improved, constructed, or acquired with the proceeds of bonds or notes shall be determined as provided in G.S. 116D-44.

"§ *116D-44. Designation of capital facilities and preconditions to bond issuance.*

The capital facilities to be financed in whole or in part with the proceeds of community college general obligation bonds shall be described in legislation enacted from time to time by the General Assembly. This legislation shall also provide for voter approval of the bonds to finance the capital facilities and shall become effective only upon approval by the voters. The proceeds of community college general obligation bonds shall not be expended to pay the costs of any capital facilities other than those described in that legislation.

"§ *116D-45. Faith and credit.*

The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. The State retains the right to amend any provision of this Article to the extent it does not impair any contractual right of a bond owner.

"§ *116D-46. Issuance of bonds and notes.*

(a) Terms and Conditions. -- Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 25 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. -- Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile of the Seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this Article.

(c) Manner of Sale; Expenses. -- Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain

newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. -- The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys which may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. -- By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment or principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes as authorized in this Article.

Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. -- By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding bonds or notes issued pursuant to this Article and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly

secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Community College Bonds Fund. -- The proceeds of community college general obligation bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated 'Community College Bonds Fund'. Moneys in the Community College Bonds Fund shall be used for the purposes set forth in this Article.

Any additional moneys that may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any community college capital facilities authorized by this Article may be placed by the State Treasurer in the Community College Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this act.

The proceeds of community college general obligation bonds and notes may be used with any other moneys made available by the General Assembly for the making of grants to community colleges for capital facilities, including the proceeds of any other State bond issues, whether previously made available or which may be made available after the effective date of this Article. The proceeds of community college bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this Article for grants to community colleges shall be disbursed for the purposes provided in this Article upon warrants

drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

"*§ 116D-47. Variable rate demand bonds and notes.*

(a) In fixing the details of bonds and notes, the State Treasurer may provide that the bonds and notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State.

(2) Be additionally supported by a credit facility.

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity.

(4) Bear interest at rates that may vary from any periods of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, any variations as may be permitted pursuant to a par formula.

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium, or for any other reason, then the amount of authorized but unissued bonds or notes during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"*§ 116D-48. Other agreements.*

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this Article as the State Treasurer considers necessary.

"*§ 116D-49. Procurement of capital facilities.*

Any laws, rules, or regulations of the State that relate to the acquisition and construction of capital facilities shall apply to the capital facilities financed pursuant to this Article."

Section 2. Proceeds of University Improvement General Obligation Bonds. -- (a) The proceeds of university improvement general obligation bonds and notes, including any premium thereon, except the proceeds of university improvement general obligation bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be allocated and expended for paying the cost of university capital facilities, to the extent and as provided in Article 2 of Chapter 116D of the General Statutes, as enacted by this act and subject to change as provided in this act, as follows:

Constituent or Affiliated Institution or Board of Governors Capital Improvement	Projected Allocation
Appalachian State University	
Central Library Complex	$47,586,800
Science Building - Completion of Interior Laboratories & Academic Space	1,260,000
Rankin Science Bldg. - Comprehensive Renovation	11,157,000
Living & Learning Center - Academic Portion	4,022,800
Visual Arts Center/Education Outreach Center - Renovation	4,374,700
Smith-Wright Hall Classroom Bldg. - Comprehensive Renovation	1,636,100
Founders Hall - Comprehensive Renovation	1,044,100
Walker Hall Classroom Bldg. - Comprehensive Renovation	1,733,800
B.B. Dougherty Hall - Comprehensive Renovation	1,000,000
Water System Improvements	2,866,200
Land Acquisition	829,300
Technology Infrastructure Expansion	4,838,900
Total Appalachian State University	$ 82,349,700
East Carolina University	
Science Laboratories & Technology Bldg. - Replacement for Flanagan Science Building	$ 55,125,300
Flanagan Bldg. - Renovation & Conversion for General Academic Use	13,421,300
Nursing, Allied Health & Developmental Evaluation Clinic Complex - Replace Rivers & Belk Buildings & Relocate to Medical School	46,882,500
Expansion & Renovation of the Old Nursing Bldg.	14,685,500
Belk Bldg. - Comprehensive Renovation & Conversion from Allied Health to General Academic	7,791,300
Classroom Improvements - Technology Upgrades &	

Renovation (Speight, Brewster, Rivers, General Classroom Bldg., Rawl & Austin)	3,648,400
Academic Space Requirements - Teaching Laboratories	5,250,000
Medical School - Addition of Library & Study Space	12,600,000
"Old Cafeteria" Office Bldg. - Comprehensive Renovation for Student Services/Academic Use	4,442,100
Infrastructure - Repairs & Expansion	16,291,100
Campus Computing Center - Comprehensive Renovation	1,785,000
Land Acquisition	7,879,400
Technology Infrastructure Expansion	807,600
Total East Carolina University	$ 190,609,500
Elizabeth City State University	
Lane Hall Classroom Bldg. - Comprehensive Renovation	$ 2,360,600
Trigg Hall Classroom Bldg. - Comprehensive Renovation	2,109,000
Johnson Hall Classroom Bldg. - Comprehensive Renovation	3,156,300
Williams Hall Classroom Bldg. - Comprehensive Renovation	2,822,700
Lester Hall Classroom Bldg. - Partial Renovation	250,000
White Graduate Center and Continuing Education Bldg - Comprehensive Renovation	1,514,000
Wilkins Laboratory Bldg. - Comprehensive Renovation	451,800
Mitchell-Lewis Residence Hall - Comprehensive Renovation	2,123,700
Wamack Residence Hall - Comprehensive Renovation	3,334,300
Doles Residence Hall - Comprehensive Renovation	1,722,500
Residence Hall for 200 Students - Replacement of Symera Hall	5,510,000
Central Chiller Plant	1,400,000
Student Center	8,778,300
Physical Education Facilities	1,447,500
Campus Infrastructure Improvements	3,405,300
Electrical Distribution System Upgrade	1,225,000
Energy Management System Improvements	886,400
Technology Infrastructure Expansion	3,149,400
Land Acquisition	650,000
Total Elizabeth City State University	$ 46,296,800
Fayetteville State University	
Residence Hall For 275 Students	$ 6,872,300
Lyons Science and Laboratory Building - Comprehensive Renovation and Addition	15,146,900
Science Annex - Comprehensive Renovation	1,740,500
Continuing Education Center - Comprehensive Renovation	432,600

Taylor Social Sciences Classroom Building - Comprehensive Renovation	884,300
Charles Chestnutt Library - Comprehensive Renovation	875,900
William Collins Building - Comprehensive Renovation	640,600
Seabrook Auditorium - Comprehensive Renovation	6,325,000
Taylor Gymnasium - Conversion of Building for Academic Use	3,360,000
Lilly Gymnasium - Comprehensive Renovation and Conversion of Building for Student Services	3,256,400
Cook Dining Hall - Comprehensive Renovation and Conversion of Building for Academic Use and Student Services	1,773,500
Student Residence Halls - Fire Safety Improvements	611,700
Campus Infrastructure Improvements	1,435,000
Comprehensive Renovation and Conversion of Spaulding (Old Infirmary) for Public Safety Facilities	1,029,100
Technology Infrastructure Expansion	1,137,600
Total Fayetteville State University	$ 45,521,400

North Carolina Agricultural and Technical State University	
Classroom and Laboratory Complex	$ 29,920,700
Chemistry Laboratory - Replacement for Hines Hall	21,831,600
Harrison Auditorium - Comprehensive Renovation	2,895,200
Curtis Residence Hall - Replacement	3,723,500
Scott Residence Hall - Replacement	26,253,300
Gamble Residence Hall - Replacement	1,552,000
New Student Housing	1,897,900
Holland Residence Hall - Comprehensive Renovation	856,800
Morrison Residence Hall - Comprehensive Renovation	3,701,100
Zoe Barbee Residence Hall - Comprehensive Renovation	3,693,800
Hazardous Materials and Waste Storage Facility	1,575,000
Improvements to School of Agriculture Facilities	1,832,700
Barnes Hall Laboratory - Comprehensive Renovation	5,550,100
Graham Hall Engineering Laboratory - Comprehensive Renovation	5,782,200
Corbett Intramural Center - Addition	7,035,000
Replacement of Steam Lines & Access Holes	1,568,300
Electrical Distribution System - Upgrade and Expansion	2,256,800
Central Cooling Plant - Phase I	9,430,700
Cherry Hall Laboratory Building - Comprehensive Renovation	8,438,200
Three Classroom Buildings (Dudley, Gibbs, & Moore) Comprehensive Renovation	4,797,100
Land Acquisition	6,300,000
Technology Infrastructure Expansion	2,921,700
Total North Carolina A & T State University	$ 153,813,700

North Carolina Central University
Science Complex - Replacement of Robinson, Hubbard, and Lee Science Buildings.....$ 36,780,000
Farrison-Newton Building - Comprehensive Renovation of Classroom Building.....7,048,700
Student Housing - Replacement.....1,556,600
Baynes Residence Hall - Replacement.....15,091,100
Rush Residence Hall - Comprehensive Renovation 2,089,400
Eagleson Residence Hall - Comprehensive Renovation.....6,869,500
Shepard Residence Hall - Comprehensive Renovation.....4,357,800
Latham Residence Hall - Comprehensive Renovation 3,411,600
McLean Residence Hall - Comprehensive Renovation 305,800
Pearson Cafeteria - Comprehensive Renovation 1,263,600
Student Residence Halls - Fire Safety and Security Improvements.....1,541,000
Turner Law School - Comprehensive Renovation.....7,028,800
Shepard Library - Comprehensive Renovation.....4,374,800
Old Senior Dorm - Conversion to Academic Use.....2,130,700
Alexander Dunn Building - Comprehensive Renovation ...1,779,300
Campus Infrastructure Improvements 10,263,800
Hoey Building - Comprehensive Renovation.....2,867,700
Code Compliance Corrections of Buildings Not Scheduled for Compliance Modifications 3,675,000
Land Acquisition.....4,000,000
Renovation of Existing Space for Public Safety Facility.....840,000
Technology Infrastructure Expansion 1,422,000

Total North Carolina Central University.....$ 118,697,200

North Carolina State University
Undergraduate Science Teaching Lab - Phase I.....$ 30,215,400
Withers Hall - Conversion From Laboratory to General Academic Use 11,480,400
College of Engineering Complex - Phase I 32,806,500
College of Veterinary Medicine - Research Addition and Renovation of Laboratories and Academic Space ..20,180,000
College of Engineering Complex - Phase II 46,565,200
David Clark Laboratory - Comprehensive Renovation and Addition.....11,555,800
Undergraduate Science Teaching Lab - Phase II 12,197,000
South Gardner Hall Laboratory Building - Comprehensive Renovation.....15,214,500
1911 Classroom Building - Comprehensive Renovation....6,972,000
Park Shops - Comprehensive Renovation and Use Conversion for General Academic Use.....6,310,700
Riddick Lab - Comprehensive Renovation and Conversion From Laboratory to Classroom Building.....26,020,900
Harrelson Classroom Building - Comprehensive Renovation 13,608,500

Clark Hall - Conversion From Infirmary to Student and Faculty Support Services	2,415,000
Schaub Food Science Building - Comprehensive Renovation	10,515,500
Williams Hall Laboratory Building - Comprehensive Renovation	12,865,500
Polk Hall Laboratory Building - Comprehensive Renovation	15,053,000
Leazar Hall Laboratory Building - Comprehensive Renovation	8,361,100
Daniels Hall Laboratory Building - Phase I - Comprehensive Renovation	7,864,500
Jordan Hall Lab and Classroom Building - Addition	13,553,300
Library - Addition	9,193,900
Support Services Center - to Relocate Various Campus Services	10,335,800
Field Research Laboratories and Outlying Research Facilities - Phase I	2,500,000
Horticulture Classroom at Arboretum Education Center	500,000
Research Laboratory Space - Phase I	18,900,000
Public Safety Facility	4,704,000
College of Veterinary Medicine - Mechanical and Electrical System Improvements	21,000,000
Technology Infrastructure Expansion	2,424,100
Chilled Water Central Plant - North Campus	41,769,000
Chilled Water Brickyard Loop Extension and Cooling Tower	2,913,800
Steam Distribution & Capacity Improvements (Sullivan Dr. Area)	3,244,100
Main Campus Infrastructure (Including Water System)	9,330,700
College of Veterinary Medicine - Infrastructure	5,300,000
Centennial Campus - Infrastructure	11,338,500
Land Acquisition	2,100,000
Total North Carolina State University	$ 449,308,700
North Carolina School of the Arts	
Basic Performance and Education Complex	$ 19,130,700
Stevens Center - Comprehensive Modernization and Major Renovations	4,434,500
Film Archives Building	2,250,000
Student Services Support Complex	2,500,000
Dance Costume Shop - Comprehensive Renovation	420,000
Workplace Building #2 - Comprehensive Renovation	1,350,000
Crawford Hall and the Recital Hall - Comprehensive Renovation	499,900
Residence Hall	1,832,100
Gray Classroom Building - Partial Renovation	1,787,700
Technology Infrastructure Expansion	1,862,300

Renovation of DeMille Theatre 2,330,300
Land Acquisition 4,150,000

Total North Carolina School of the Arts ..... $ 42,547,500

University of North Carolina at Asheville
Math and Science Building - Replacement of Rhodes and Robinson Buildings ..... $ 22,203,200
Highsmith Center - Comprehensive Renovation and Addition 11,522,000
Carmichael Hall Classroom Building - Comprehensive Renovation 5,524,200
Zageir Hall Classroom Building - Partial Renovation 2,569,100
Campus Primary Electrical Distribution System Upgrade and Improvements 1,023,800
Relocate Physical Plant Facilities 6,318,900
Technology Infrastructure Expansion 751,200

Total University of North Carolina at Asheville ..... $ 49,912,400

University of North Carolina at Chapel Hill
Science Complex - Phase I ..... $ 55,012,500
Science Complex - Phase II 33,437,500
Murphey Hall Classroom Bldg. - Comprehensive Renovation 6,723,500
School of Medicine - Medical Research Bldg. - Comprehensive Renovation of Classroom & Laboratory Space 12,895,000
New West Classroom Bldg. - Comprehensive Renovation 4,500,000
Steele Bldg. - Comprehensive Renovation & Conversion of Administrative Office Bldg. to a Classroom Bldg. 3,428,600
Saunders Hall Classroom Bldg. - Comprehensive Renovation 4,194,100
Peabody Hall Classroom Bldg. - Comprehensive Renovation 8,509,800
Memorial Hall - Comprehensive Renovation & Addition 9,000,000
Smith Hall - Comprehensive Renovation 1,355,200
Health Sciences Library - Comprehensive Renovation 11,000,000
Institute of Marine Sciences Morehead City - Comprehensive Renovation and Conversion From Lab to Classroom 1,833,300
School of Dentistry Bldg. - Renovation & Conversion from Operatory to General Academic Use 8,397,100
Rosenau Hall Laboratory Bldg. - Comprehensive Renovation 9,000,000
Brauer Hall - Comprehensive Renovation of Dental Clinic 13,415,400
Burnett Womack Bldg. Research Laboratory - Comprehensive Renovation 24,848,000
Berryhill Hall Laboratory Bldg. - Comprehensive

Renovation 10,700,000
Beard Hall Classroom & Laboratory Bldg. - Comprehensive Renovation 3,500,000
Hamilton Hall - Comprehensive Renovation of Classrooms & Lecture Halls 1,539,000
Gerrard Hall Classroom Bldg. - Comprehensive Renovation 1,350,000
Caldwell & Howell Halls - Comprehensive Renovation of Classrooms & Lecture Halls 1,732,000
Coker & Mitchell Halls - Comprehensive Renovation of Classrooms & Lecture Halls 1,718,000
Hanes & Manning Halls & Alumni Bldg. - Comprehensive Renovation of Classrooms & Lecture Halls 2,233,000
Woollen & Fetzer - Comprehensive Renovation of Classrooms & Lecture Halls 1,598,000
Greenlaw Hall - Comprehensive Renovation of Classrooms & Lecture Halls 1,825,000
Phillips Hall - Comprehensive Renovation of Classrooms & Lecture Halls 1,450,000
Hill & Davie Halls - Comprehensive Renovation of Classrooms & Lecture Halls 1,949,000
Teaching Research Building - School of Public Health Project Supplement 13,382,900
Carrington Hall - Addition for School of Nursing Project Supplement 10,082,100
Medical Biomolecular Research Bldg 26,718,000
Community Health Bldg. - Consolidation of Programs ... 18,340,000
Academic Facilities to Consolidate International Education Programs 20,000,000
College of Arts & Sciences - Digital Multimedia Instructional Center & Music Library 20,150,000
School of Medicine - Bioinformatics Bldg. - Supplement for Appropriated Activity 2,000,000
Physical Plant Support Facilities 7,875,000
Student Services Bldg. - Consolidation of Services (Advising, Financial Aid, Registration, Housing) 27,000,000
Storm Drainage Improvements 10,500,000
Cogeneration Facility - Back Pressure Turbine Generator .2,625,000
Steam Distribution System Replacement 6,300,000
Upgrade Campus Energy Management & Control System .3,682,600
Campus Fiber Optics Network 17,533,500
Electrical Systems Improvements 8,400,000
Infrastructure Improvements - Main Campus 32,298,000
Technology Infrastructure Expansion 9,165,000
Land Acquisition 8,000,000
440 West Franklin Street - Comprehensive Renovation & Conversion for Information Technology & Data Processing 9,170,000
Wilson Hall Laboratory - Comprehensive Renovation 8,920,000

Total University of North Carolina at Chapel Hill.....$ 499,286,100

University of North Carolina at Charlotte
Academic Facilities - Humanities.....$ 16,167,000
Science and Technology Bldg.....33,207,000
Classroom & Office Bldg.....26,102,500
College of Education Bldg.....24,654,500
College of Nursing & Health Professions Bldg. 34,125,000
Graduate Engineering Complex 14,700,000
Research Facility & Laboratory - Phase I.....8,400,000
Central Heating & Plant Improvements - Upgrade & Modernization 2,826,200
Rowe Classroom Bldg. - Comprehensive Renovation.....4,306,500
McEniry Classroom Bldg. - Comprehensive Renovation...3,433,000
Physical Plant & Campus Public Safety Facilities.....5,515,000
Chiller Replacement 1,824,200
Technology Infrastructure Expansion 3,345,500

Total University of North Carolina at Charlotte.....$ 178,606,400

University of North Carolina at Greensboro
Science Instructional Bldg. - Replacement of Petty Science Bldg. .....$ 38,412,200
Petty Bldg. - Comprehensive Renovation for Classroom Use 16,272,300
Brown Classroom Bldg. - Comprehensive Renovation 6,493,900
McIver Classroom Bldg. - Replacement 21,636,500
Aycock Auditorium - Comprehensive Renovation.....17,163,000
Stone Classroom Bldg. - Comprehensive Renovation.....8,930,400
Meeting/Seminar/Office Space - Alumni House - Code Compliance & Bldg. System Replacements.....3,258,000
Heating Plant Capacity Expansion & Energy Efficiency Improvements.....4,851,300
Forney Classroom Bldg. - Comprehensive Renovation.....3,565,400
McNutt Classroom Bldg. - Comprehensive Renovation 2,724,000
Electric Power Distribution - Capacity Expansion & Upgrade 4,091,000
Research Space - Phase I.....5,250,000
McIver Chiller Plant Expansion & Improvements 9,373,800
Infrastructure - Northeast Quadrant.....6,825,200
Technology Infrastructure Expansion 4,101,300
Land Acquisition 7,000,000

Total University of North Carolina at Greensboro.....$ 159,948,300

University of North Carolina at Pembroke
Science Bldg.....$ 9,408,000
Oxendine Science Bldg. - Comprehensive Renovation.....8,032,600
Locklear Hall Classroom Bldg. - Comprehensive

Renovation	2,000,000
D.F. Lowry Classroom Bldg. - Comprehensive Renovation & Addition	1,950,500
Business Administration Bldg. - Comprehensive Renovation	1,059,800
Moore Classroom Hall - Comprehensive Renovation	2,639,700
Residence/Dining Hall - Replacement of Jacobs & Wellons Halls	7,700,300
West Residence Hall - Comprehensive Renovation	977,300
Jones Physical Education Complex - Comprehensive Renovation	8,243,700
Replace Physical Plant Complex	5,656,000
Renovation of Former Physical Plant Facility to Provide Relocation of Auxiliary Services Complex & Student Bookstore	2,696,000
Campuswide Infrastructure Improvements	1,996,600
Campus Water Distribution Upgrades	525,000
Primary Electrical Distribution Upgrades	945,000
Technology Infrastructure Expansion	2,798,500
Total University of North Carolina at Pembroke	$ 56,629,000
University of North Carolina at Wilmington	
School of Education Bldg.	$ 18,725,000
Academic & Classroom Facilities	33,032,100
General Classroom Bldg.	12,647,000
King Hall Classroom Bldg. - Comprehensive Renovation	2,697,400
Hoggard Hall Classroom Bldg. - Comprehensive Renovation	3,550,400
Alderman Hall Classroom Bldg. - Comprehensive Renovation	2,940,800
Westside Hall Classroom Bldg. - Comprehensive Renovation	2,687,300
Kenan Hall Classroom Bldg. - Comprehensive Renovation	3,056,600
Hinton James Hall Classroom Bldg. - Comprehensive Renovation	1,468,000
Friday Hall Laboratory Bldg. - Comprehensive Renovation	7,693,400
Kenan Auditorium - Comprehensive Renovation	3,095,300
Marine Sciences Research Center Operations Facility	2,929,600
Academic Support Facilities & Computing Center	4,585,900
Infrastructure Expansion	1,775,000
Land Acquisition	2,100,000
Primary Electrical Distribution System Improvements	2,238,200
Technology Infrastructure Expansion	2,949,000
Total University of North Carolina at Wilmington	$ 108,171,000

Western Carolina University
Academic Facilities - Humanities & Fine Arts $26,030,700
Stillwell Lab Bldg. - Comprehensive Renovation 15,057,500
McKee Classroom Bldg. - Comprehensive Renovation.....5,289,700
Bird Bldg. - Renovation & Conversion for Student Health Center 1,836,500
Conversion of Old Student Health Center to Residential & Academic Space 1,887,100
Breese Gymnasium - Conversion to Academic Use.....1,161,300
Housing Facility for 300 Students.....15,204,600
Chiller Replacement & CFC Retrofit.....1,489,600
Infrastructure Improvements (Steam & Electrical) 10,639,000
Killian Clinic Annex - Comprehensive Renovation 3,129,900
Killian Education & Allied Professions Bldg. - Partial Renovation.....1,546,300
Forsyth Classroom & Computer Labs Bldg. - Comprehensive Renovation 7,064,000
Land Acquisition 3,093,000
Technology Infrastructure Expansion 5,018,600

Total Western Carolina University .....$ 98,447,800

Winston-Salem State University
Computer Science Facility - Replacement & Consolidation $11,643,300
Carolina Hall - Renovation & Conversion From Computer Center to Classrooms 4,270,700
Physical & Life Sciences Bldg. - Replacement of Hill Hall 12,109,500
Anderson Center - Comprehensive Renovation & Change of Use for Early Childhood/Gerontology Programs.....6,917,900
Health Center Bldg. & Old Nursing Bldg. - Comprehensive Renovation for Student Health 2,265,900
Replace Underground Steam and Hot Water Piping.....1,249,500
Chilled Water Loop System 435,000
Infrastructure Improvements 1,708,300
Technology Infrastructure Expansion 1,676,100

Total Winston-Salem State University.....$ 42,276,200

University of North Carolina Affiliated Institutions

UNC Center for Public Television - Digital Conversion ...$64,995,000
UNC Center for Public Television - Mobile Satellite Uplink ...895,600
North Carolina School of Science & Math - Comprehensive Renovation of Bryan Center 3,172,600
North Carolina School of Science and Math - Comprehensive Renovation of Royall Outreach Center.....1,990,400
North Carolina Arboretum in Asheville - Improvements to

Facilities & Infrastructure to Provide for Environmental Education & Economic Development Opportunities 9,331,700

Total - UNC Affiliated Institutions $80,385,300

Projects Whose Funding Was Transferred to Disaster Recovery Fund:

Appalachian State University
Rankin Science Building - Renovation & Addition ....$ 5,056,500
Fayetteville State University
Seabrook Auditorium - Comprehensive Renovation 500,000
North Carolina Agricultural and Technical State University
Campus Security Improvements 828,716
Classroom & Laboratory Complex.....7,157,675
North Carolina Central University
B.N. Duke Auditorium Addition 740,000
Health & Safety Repairs & Renovations 1,809,003
North Carolina State University
College of Veterinary Medicine - Research Addition and Renovation of Labs & Academic Space.....675,000
College of Engineering Complex, Planning 3,200,000
Meat Processing Laboratory.....4,853,755
Research & Teaching Feed Mill.....2,582,000
Undergraduate Science Teaching Lab - Phase I.....4,586,000
University of North Carolina at Asheville
Highsmith Center - Comprehensive Renovation & Addition 356,800
Justice Gym - Renovations 195,000
University of North Carolina at Chapel Hill
Carolina Living & Learning Center 1,154,275
Memorial Hall - Comprehensive Renovation & Addition..200,000
R.B. House Library - Renovations 9,898,700
University of North Carolina at Charlotte
Academic Facilities - Humanities.....9,243,365
Science & Technology Building 2,183,736
University of North Carolina at Greensboro
Science Instructional Bldg. - Replace Petty Science Bldg 6,059,955
General Administration
Reserve for Land Acquisition.....3,051,200
University of North Carolina at Pembroke
Economic Forum Building 244,600
University of North Carolina at Wilmington
School of Education Building - Planning.....1,030,800
Western Carolina University
Academic Facilities - Humanities & Fine Arts 1,888,944
Winston-Salem State University
F.L. Atkins - Additions & Renovations.....4,159,840
Computer Science Facility - Planning 350,541

Total - Disaster Recovery Projects.....$72,006,405

Reserve for Repairs and Renovations and Cost Overruns ..$25,186,595

TOTAL $ 2,500,000,000

Section 2.(b) The Director of the Budget is empowered, when the Director of the Budget determines it is in the best interest of the State and the University to do so, and if the cost of a particular capital facility is less than the amount allocated for it, to use the excess funds to meet increased costs of other capital facilities itemized in this section and located at the same institution. The Director of the Budget shall report to the Joint Legislative Commission on Governmental Operations on changes made under this subsection. In addition, any capital facility and the amount of the allocation for it set forth above may be changed from time to time as the General Assembly may decide. The provisions of G.S. 116-11(9) with respect to appropriations to the Board of Governors of The University of North Carolina shall not apply to proceeds of university improvement general obligation bonds and notes issued pursuant to Article 2 of Chapter 116D of the General Statutes, as enacted by this act.

Section 2.(c) Allocations to the costs of a capital improvement or undertaking in each case may include allocations to pay the costs set forth in this act in connection with the issuance of university improvement general obligation bonds for that capital improvement or undertaking.

Section 2.(d) The validity of university improvement general obligation bonds and notes issued under Article 2 of Chapter 116D of the General Statutes, as enacted by this act, is not affected by any subsequent adjustment of allocations, or by any failure to comply with the reporting requirements provided in this act.

Section 2.(e) Bond proceeds allocated to the reserve for repairs and renovations and cost overruns may be used only for repairs and renovations for any of the institutions listed in this section and for additional costs needed for projects listed in this section due to cost overruns. The capital facilities for which bond proceeds in the reserve will be used shall be determined by the Board of Governors, subject to approval by the Director of the Budget. The Board of Governors shall include the details of all allocations made pursuant to this subsection in its periodic reports under G.S. 116D-3 to the Joint Legislative Commission on Governmental Operations.

Section 2.(f) It is the intent of the General Assembly that every effort will be made to preserve the architectural and historic fabric of the buildings being renovated pursuant to this section.

Section 3. Proceeds of Community College General Obligation Bonds. -- (a) The proceeds of community college general obligation bonds and notes, including any premium thereon, except the proceeds of community college general obligation bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of

refunding bonds or notes, shall be allocated and expended for paying the cost of community college capital facilities, to the extent and as provided in Article 4 of Chapter 116D of the General Statutes, as enacted by this act and subject to change as provided in this act, to be located at the following community colleges, campuses, and centers:

SITE	NEW CONSTRUCTION	REPAIR & RENOVATION	TOTAL
Alamance CC	$5,045,847	$1,427,105	$6,472,952
Alamance-Glenhope Sch. Ctr.	0	0	0
Alamance-Front St. Ctr.	405,524	0	405,524
Alamance-Glen Raven Ctr.	295,980	0	295,980
Asheville-Buncombe TCC	10,898,254	3,116,351	14,014,604
Asheville-Madison Cty.	63,176	0	63,176
Beaufort County CC	6,059,045	1,119,399	7,178,445
Bladen CC	3,424,794	896,809	4,321,603
Bladen-Kelly/ East Arcadia Ctr.	0	0	0
Blue Ridge CC	0	1,611,877	1,611,877
Blue Ridge-Transylvania Cty.	1,801,615	0	1,801,615
Brunswick CC	0	1,068,070	1,068,070
Brunswick-Job Link Ctr.	0	0	0
Brunswick-Leland Ctr.	348,648	0	348,648
Brunswick-Southport Ctr.	0	0	0
Caldwell CC & TI	2,457,408	1,903,423	4,360,831
Cald-Watauga Cty.Campus	2,416,450	0	2,416,450
Cald-Admin.Support/ Basic Skills Ctr.	0	0	0
Cald-Watauga Cty.Bus.Ctr.	254,060	0	254,060
Cape Fear CC	34,263,025	2,377,932	36,640,957
Cape-North Campus	0	0	0
Cape-Burgaw Ctr.	0	0	0
Cape-Hampstead Ctr.	0	0	0
Carteret CC	5,645,724	1,164,052	6,809,775
Catawba Valley CC	7,567,306	2,429,339	9,996,645

Central Carolina CC	7,648,795	1,751,070	9,399,864
Central-Chatham Cty.	447,158	0	447,158
Central-Harnett Cty.	3,142,702	0	3,142,702
Central-School of Telecommunications	731,923	0	731,923
Central-Siler Cty.Ctr.	180,647	0	180,647
Central Piedmont CC	18,654,400	10,445,679	29,100,079
CP-North Campus	6,530,615	0	6,530,615
CP-Northeast Campus	4,533,241	0	4,533,241
CP-South Campus	17,887,868	0	17,887,868
CP-Southwest Campus	535,683	0	535,683
CP-West Campus	3,833,442	0	3,833,442
CP-West Center	1,440,726	0	1,440,726
Cleveland CC	3,887,036	1,252,104	5,139,140
Coastal Carolina CC	17,790,113	1,688,980	19,479,093
College of the Albemarle	3,616,438	1,491,244	5,107,682
Coll Alb-Chowan Cty.	905,612	0	905,612
Coll Alb-Dare Cty.	742,724	0	742,724
Coll Alb-Riverside Ext. Ctr.	0	0	0
Craven CC	4,846,449	1,148,175	5,994,625
Craven-Havelock/ Cherry Point Ctr.	1,454,284	0	1,454,284
Davidson County CC	4,379,058	1,741,409	6,120,468
Davidson-Davie Cty.	0	0	0
Durham TCC	13,275,320	2,152,672	15,427,992
Durham-Northern Durham Ctr.	0	0	0
Edgecombe CC	3,913,531	1,257,203	5,170,734
Edge-Rocky Mt. Campus	2,843,283	0	2,843,283
Fayetteville TCC	26,786,691	3,513,973	30,300,664
Fay-Firefighting Fac.Ctr.	11,530	0	111,530
Fay-Ft. Bragg Ctr.	8,078,980	0	8,078,980
Forsyth TCC	10,684,819	3,681,688	14,366,507
Forsyth-Carver Rd. Ctr.	448,575	0	448,575
Forsyth-Kernersville Ctr.	260,414	0	260,414
Forsyth-West Ctr.	3,251,213	0	3,251,213

Gaston College	6,489,955	2,730,684	9,220,639
Gaston-Lincoln Cty.	396,044	0	396,044
Guilford TCC	20,197,109	4,923,774	25,120,883
Guilf-Aviation Ctr.	0	0	0
Guilf-Greensboro Campus	5,505,710	0	5,505,710
Guilf-High Point Ctr.	2,397,563	0	2,397,563
Guilf-Small Bus. Ctr.	0	0	0
Halifax CC	8,273,039	811,569	9,084,608
Haywood CC	570,480	1,851,922	2,422,402
Hay-Continuing Ed. Ctr.	0	0	0
Hay-High Tech. Ctr.	217,598	0	217,598
Hay-Human Resource Dev.Ctr.	0	0	0
Isothermal CC	1,658,309	1,683,735	3,342,044
Isothermal-Polk Cty.	0	0	0
James Sprunt CC	1,783,718	931,319	2,715,037
Johnston CC	8,967,804	1,212,688	10,180,492
Lenoir CC	8,225,249	2,399,692	10,624,940
Lenoir-Aviation Ctr.	0	0	0
Lenoir-Greene Cty.	2,190,044	0	2,190,044
Lenoir-Jones Cty.	0	0	0
Lenoir-Walstonburg Ctr.	0	0	0
Lenoir-West Boundary Street Ctr.	26,314	0	26,314
Martin CC	0	1,563,896	1,563,896
Martin-Bertie Cty.	0	0	0
Mayland CC	2,375,835	441,545	2,817,380
Mayland-Avery Cty.	355,617	0	355,617
Mayland-Yancey Cty.	73,158	0	73,158
McDowell TCC	2,138,279	721,288	2,859,567
McDowell-Marion Ctr.	0	0	0
Mitchell CC	3,178,788	2,256,112	5,434,900
Mitchell-Mooresville Ctr.	216,851	0	216,851
Montgomery CC	0	502,004	502,004
Nash CC	4,283,237	948,844	5,232,081
Pamlico CC	2,187,555	283,376	2,470,930

Piedmont CC	2,343,199	844,824	3,188,023
Piedmont-Caswell Cty.	1,567,922	0	1,567,922
Pitt CC	16,393,265	1,632,443	18,025,708
Randolph CC	1,237,606	1,685,530	2,923,136
Randolph-Archdale Ctr.	106,773	0	106,773
Richmond CC	3,542,287	1,248,389	4,790,676
Rich-Continuing Ed. Ctr.	295,672	0	295,672
Rich-James Nursing Bldg.	0	0	0
Rich-Scotland Cty.	137,272	0	137,272
Roanoke-Chowan CC	0	856,263	856,263
Robeson CC	10,575,996	1,151,996	11,727,992
Robeson-Emergency Training Ctr.	61,160	0	61,160
Robeson-Lumberton Extension Ctr.	1,407,677	0	1,407,677
Robeson-Pembroke Extension Ctr.	608,293	0	608,293
Rockingham CC	2,639,291	2,177,350	4,816,641
Rowan-Cabarrus CC	5,207,129	1,611,168	6,818,297
Rowan-Cabarrus Cty.	4,357,029	0	4,357,029
Rowan-Cabarrus-Corban Ctr.	0	0	0
Sampson CC	3,439,820	700,530	4,140,350
Sandhills CC	10,136,912	2,125,715	12,262,627
Sandhills-Hoke Cty.	1,333,467	0	1,333,467
South Piedmont CC	0	416,235	416,235
SP-Ansonville Ctr.	0	0	0
SP-Union Cty. Campus	263,488	0	263,488
SP-Wadesboro Ctr.	0	0	0
Southeastern CC	5,496,936	1,394,868	6,891,803
Southwestern CC	6,232,770	1,288,942	7,521,712
Southwestern-Macon Cty.	2,944,018	0	2,944,018
Southwestern-Swain Cty.	0	0	0
Stanly CC	4,226,740	909,851	5,136,590
Stanly-Western Stanly Ctr.	0	0	0

Surry CC	7,466,541	1,474,584	8,941,125
Surry-Yadkin Cty.	541,702	0	541,702
Tri-County CC	125,294	891,527	1,016,820
Tri-County-Graham Cty.	43,597	0	43,597
Vance-Granville CC	7,633,566	1,273,135	8,906,700
Vance-Franklin Cty.	2,369,272	0	2,369,272
Vance-Granville Cty.	3,879,202	0	3,879,202
Vance-Warren Cty.	1,915,271	0	1,915,271
Wake TCC	26,516,423	2,862,938	29,379,360
Wake-Adult Ed. Ctr.	1,129,190	0	1,129,190
Wake-Health Ed. Campus	2,525,838	0	2,525,838
Wake-Northeast Campus	0	0	0
Wayne CC	11,613,049	1,377,357	12,990,406
Wayne-Aviation Ctr.	0	0	0
Western Piedmont CC	3,858,649	1,486,274	5,344,923
WP-North King/ West Meeting St. Ctr.	0	0	0
Wilkes CC	2,686,596	1,998,817	4,685,413
Wilkes-Alleghany Cty.	33,995	0	33,995
Wilkes-Ashe Cty.	671,077	0	671,077
Wilson TCC	4,584,607	1,358,540	5,943,147
Wilson-Police Acad. Ctr.	305,311	0	305,311
Center for Applied Textile Technology	750,000	29,447	779,447
TOTAL	$498,702,280	$101,297,720	$600,000,000

Section 3.(b) Except as provided in this subsection, a community college may use the bond proceeds allocated in subsection (a) of this section for new construction only in accordance with the capital allocation formula adopted by the State Board of Community Colleges in March 2000. Except as provided in this subsection, a community college may use the bond proceeds allocated in subsection (a) of this section for repair and renovation only in accordance with the repair and renovation formula adopted by the State Board of Community Colleges in May 1998, as supplemented by additional repair and renovation needs determined by the State Board of Community Colleges as of April 2000. The following provisions govern reallocations:

(1) New Construction. -- Except as provided in this paragraph, new construction funds allocated in this section to a specific

site may not be allocated to another site. If the local board of trustees of a community college determines that new construction funds allocated to a specific site are not needed at that site, the board may request that the State Board of Community Colleges reallocate those funds for new construction at another site of the community college. Except in the case of Mayland Community College, the funds may not be reallocated from a site outside the main campus county to a site within the main campus county. If the State Board of Community Colleges determines that the funds are not needed for new construction at the site for which they were originally allocated, it shall approve the reallocation to the other site and shall substitute the proposed facility at the other site in the Community Colleges System Office's application to the State Treasurer pursuant to G.S. 116D-43.

Each community college shall submit to the State Board of Community Colleges a statement (i) proposing the capital facilities to be financed with the proceeds of community college general obligation bonds allocated to that community college, (ii) certifying that the proposed site is included in the allocations in this section or is a substitute facility at another site because the funds are not needed for new construction at the site for which they are allocated in this section, (iii) certifying that the community college is prepared to proceed with the construction, acquisition, or improvement of the proposed capital facilities, and (iv) demonstrating that the applicable matching requirements have been or will be met.

Upon receipt by the State Board of Community Colleges of the information set forth above, the Board shall add the proposed capital facilities to the next application of the Community Colleges System Office to the State Treasurer to issue bonds pursuant to G.S. 116D-43.

The board of trustees of an individual community college may use funds allocated for new construction either for new construction or for repair and renovations.

(2) Repair and Renovations. -- The board of trustees of a community college may use funds allocated for repair and renovations only for repair and renovations, and not for new construction. Funds allocated for repair and renovations shall be directed by the local board of trustees of a community college among the State Board approved sites of the community college on the basis of need, subject to approval by the State Board of Community Colleges.

(3) Reallocation by General Assembly. -- The projected allocations set forth above may be changed from time to time as the General Assembly may decide.

Section 3.(c) Community colleges are not required to match bond proceeds allocated in this section for repair and renovations. The match requirements of Chapter 115D of the General Statutes apply to bond proceeds allocated in this section for new construction except as provided in this subsection. The consultant hired by the State Board of Community Colleges to determine funding formulas for the community college system developed an index to measure each county's ability to pay. The consultant found that some counties are unable to meet their local match requirement under Chapter 115D of the General Statutes because of inability to pay. The consultant recommended applying the "ability to pay" index to generate an adjusted matching rate. Accordingly, community colleges are required to match bond proceeds allocated for new construction in this section only as follows: Community colleges assigned an adjusted matching rate of less than forty percent (40%) in the ability to pay portion of the formula adopted by the State Board of Community Colleges in March 2000 are not required to match, and community colleges assigned an adjusted matching rate of forty percent (40%) or more in the ability to pay portion of the formula are required to match only at the assigned rate.

Section 3.(d) If the State Board of Community Colleges determines that a community college has not met its matching requirements by July 1, 2006, with respect to a capital improvement project for which bond proceeds are allocated in this act, the Board shall certify that fact to the State Treasurer by October 1, 2006. All of these bond proceeds with respect to which the Board certifies that the matching requirement has not been met by July 1, 2006, shall be placed by the State Treasurer in a special account within the Community Colleges Bond Fund and shall be used for making grants to community colleges. Bond proceeds in the special account shall be allocated among the community colleges in accordance with the following conditions:

(1) The State Board of Community Colleges shall generate, by October 1, 2006, a priority ranking of legitimate community college capital improvement needs using a formula based on objective meaningful factors relevant to capital needs, including actual and projected enrollment, space requirements, current capacity, construction costs, and any other factors the State Board considers relevant.

(2) The State Board of Community Colleges shall provide the State Treasurer a projected allocation of the proceeds in the special account in accordance with this priority ranking, except that:

a. No projected allocation shall be made for a community college that the Board certified in accordance with this subsection had failed to meet a matching requirement.

b. No more than four million dollars ($4,000,000) shall be allocated to a single community college.

c. Funds shall not be allocated for more than one project per community college.

(3) The proceeds of grants made from bond proceeds in the special account shall be allocated and expended for paying the cost of community college capital improvements in accordance with this allocation by the State Board of Community Colleges, to the extent and as provided in this act. The Director of the Budget is empowered, when the Director of the Budget determines it is in the best interest of the State and the North Carolina Community College System to do so, and if the cost of a particular project is less than the projected allocation, to use the excess funds to increase the size of that project or increase the size of any other project itemized in this section, or to increase the amount allocated to a particular community college within the aggregate amount of funds available under this section. The Director of the Budget shall consult with the Advisory Budget Commission and the Joint Legislative Commission on Governmental Operations before making these changes.

Section 3.(e) For all purposes of this act, the North Carolina Center for Applied Textile Technology is designated to be a community college, with a matching rate of less than forty percent (40%). The General Assembly finds and determines that such designation is reasonable in that the Center is subject to policies and regulations of the State Board of Community Colleges, is governed by a board of trustees consisting of the President of the North Carolina System of Community Colleges and other members appointed by the Governor, and has a legislative directive to (i) assist individual citizens of North Carolina in becoming contributing members of a well-qualified workforce and (ii) assist in identification of problems confronting the textile industry and in solving these problems through education, training, and technology transfer in partnership with the North Carolina Community College System.

Section 3.(f) Notwithstanding G.S. 143-341(3)a.2., G.S. 143-341(3) applies only to funds provided by this act for construction or renovation of community college buildings requiring an estimated expenditure of more than two hundred fifty thousand dollars ($250,000).

Section 3.(g) The validity of community college general obligation bonds and notes issued under Article 4 of Chapter 116D of the General Statutes, as enacted by this act, is not affected by any subsequent adjustment of allocations or matching requirements provided in this act, or by any failure to comply with matching requirements or reporting requirements provided in this act.

Section 4. Higher Education Bond Oversight Committee. -- (a) Creation and Membership. The Higher Education Bond Oversight Committee is established. The Committee shall be located administratively in the General Assembly. The Committee shall consist of 10 members appointed as provided below. In making

appointments, each appointing officer shall select members who have appropriate experience and knowledge of the issues to be examined by the Committee and shall strive to ensure geographical diversity among the membership.

(1) Three members shall be appointed by the Speaker of the House of Representatives.
(2) Three members shall be appointed by the President Pro Tempore of the Senate.
(3) Two members shall be appointed by the Chair of the Board of Governors of The University of North Carolina.
(4) Two members shall be appointed by the Chair of the State Board of Community Colleges.

Section 4.(b) Terms. Terms on the Committee are for three years and begin on January 15, except the terms of the initial members, which begin on appointment. A member continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

Section 4.(c) Duties. The Committee shall:

(1) Call for reports and presentations from the following parties and convene for the purpose of hearing from the following parties:
    a. The University Facilities Office of each institution of The University of North Carolina.
    b. The Facilities Office of the General Administration of The University of North Carolina.
    c. The State Construction Office of the Department of Administration.
    d. The president of each community college, or the president's designee.
    e. The Administrative and Facilities Services Section of the North Carolina Community College System Office.
    f. The State Treasurer.
(2) Analyze and prepare recommendations, based on the information received under subdivision (1) of this subsection, concerning the following issues:
    a. Whether expenditures of the proceeds from the bonds issued under this act are in compliance with the provisions of this act.
    b. Whether the awarded contracts are consistent with the budget and scope of the approved projects.
    c. Whether changes in construction methods could enhance cost savings and promotion of on-time completion of projects.
    d. Whether the bond issuances are adequately timed to reflect cash-flow requirements of the projects.

Section 4.(d) Reports. The Committee shall report semiannually to the Board of Governors of The University of North Carolina, the State Board of Community Colleges, and the Joint Legislative Commission on Governmental Operations.

Section 4.(e) Organization. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Committee. The Committee shall meet at least once a quarter upon the joint call of the cochairs. A quorum of the Committee is six members. No action may be taken except by a majority vote at a meeting at which a quorum is present.

Section 4.(f) Funding. From funds available to the General Assembly, the Legislative Services Commission shall allocate monies to fund the work of the Higher Education Bond Oversight Committee. Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1 and G.S. 138-5.

Section 4.(g) Staff. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee.

Section 4.(h) Expiration. The Higher Education Bond Oversight Committee terminates upon completion of all projects funded by bond proceeds issued under this act.

Section 5. Interpretation of Act. (a) Additional Method. -- This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing The University of North Carolina to issue self-liquidating debt or other debt secured by designated sources of funds.

Section 5.(b) Statutory References. -- References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

Section 5.(c) Liberal Construction. -- This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

Section 5.(d) Severability. -- If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 6. Repair and Renovation Reports. -- The Board of Governors of The University of North Carolina shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee on the condition of all of the University's capital facilities, including a status report on all repair, renovation, and maintenance projects being undertaken and

an assessment of needs for additional funding to repair, renovate, and maintain the facilities.

The Board of Governors of The University of North Carolina shall also study the repairs and renovations formula currently utilized with respect to funding for the Repairs and Renovations Reserve Account to determine whether it adequately takes into account all of the appropriate maintenance needs of each constituent and affiliated institution, and shall recommend to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee any changes necessary to improve the formula. The Board shall make recommendations on the scope and adequacy of the methodology used to calculate the funding for the repairs and renovations reserve as specified in G.S. 143-15.2.

Section 7.(a) Minority Business Participation. -- The goals set by G.S. 143-128 for participation in projects by minority businesses apply to projects funded by the proceeds of bonds or notes issued under this act. The following State agencies shall monitor compliance with this requirement and shall report to the General Assembly by January 1 of each year on the participation by minority businesses in these projects. The State Construction Office, Department of Administration, shall monitor compliance with regard to projects funded by the proceeds of university improvement general obligation bonds and notes and special obligation bonds and notes; the Board of Governors of The University of North Carolina shall provide the State Construction Office any information required by the State Construction Office to monitor compliance. The Community Colleges System Office shall monitor compliance with regard to projects funded by the proceeds of community college general obligation bonds and notes.

Section 7.(b) The Department of State Treasurer shall provide contracting opportunities for historically underutilized businesses in providing professional services in connection with the issuance of bonds and notes authorized by this act. As used in this subsection, the term "historically underutilized business" means a business described in G.S. 143-48. The Department of State Treasurer shall strive to increase the amount of legal, financial, and other professional services acquired by it from historically underutilized businesses. With the assistance of the Office for Historically Underutilized Businesses in the Department of Administration, the Department of State Treasurer shall set objectives for contracting with these businesses, identify and eliminate barriers or constraints that may restrict these businesses from contracting with the Department, and develop a plan for meeting its objectives. The Department of State Treasurer shall report quarterly to the Office for Historically Underutilized Businesses on its progress in carrying out the requirements of this subsection.

Section 8. Equity in University Improvements. -- The Board of Governors of The University of North Carolina shall continue to study and monitor any inequities in funding for capital improvements and facilities needs which may still exist on North Carolina's Public

Historically Black Colleges and Universities and the University of North Carolina at Pembroke, beyond the funding of the projects provided for in this act, and shall report annually to the Joint Legislative Commission on Governmental Operations on any remaining inequities found, including recommendations as to how those inequities should be addressed.

Section 9. Reserved.

Section 10. The question of the issuance of the bonds authorized by Articles 2 and 4 of Chapter 116D of the General Statutes, as enacted by this act, and authorized by Sections 2 and 3 of this act, shall be submitted to the qualified voters of the State at the statewide general election to be held in November 2000. Any other primary, election, or referendum validly called or scheduled by law at the time the election on the bond question provided for in this section is held may be held as called or scheduled. Notice of the election shall be given in the manner and at the times required by G.S. 163-33(8). The election and the registration of voters therefor shall be held under and in accordance with the general laws of the State. Absentee ballots shall be authorized in the election.

The State Board of Elections shall reimburse the counties of the State for all necessary expenses incurred in holding the election that are in addition to those that would have otherwise been incurred, the same to be paid out of the Contingency and Emergency Fund or other funds available to the State Board of Elections.

Ballots, voting systems authorized by Article 14 of Chapter 163 of the General Statutes, or both may be used in accordance with rules prescribed by the State Board of Elections. The bond question to be used in the ballots or voting systems shall be in substantially the following form:

"[ ] FOR [ ] AGAINST

the issuance of State of North Carolina Higher Education Improvement Bonds, constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to pay all or part of the cost of (i) renovating laboratories, classrooms, academic buildings, and worker training facilities and providing other capital improvements at the 59 institutions of the North Carolina Community College System in order to fulfill the mission of educating students and providing worker training essential to the North Carolina economy, and to address expected large increases in student enrollment, and (ii) renovating and replacing classrooms, laboratories, and academic buildings and providing other capital improvements at the 16 campuses of the constituent institutions, the affiliated institutions, and the Center for Public Television (UNC-TV) of the University of North Carolina System in order to meet large expected student enrollment increases, serve North Carolina by providing the education critical to the State's economy, and continue to provide UNC-TV public television to the State's viewers; in the

amount of three billion one hundred million dollars ($3,100,000,000)."

If a majority of those voting on the bond question in the election vote in favor of the issuance of the bonds, the bonds may be issued as provided in this act. If a majority of those voting on the bond question in the election do not vote for the issuance of the bonds, the bonds shall not be issued.

The results of the election shall be canvassed and declared as provided by law for elections for State officers; the results of the election shall be certified by the State Board of Elections to the Secretary of State, in the manner and at the time provided by the general election laws of the State.

Section 11. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of May, 2000.

Became law upon approval of the Governor at 10:50 a.m. on the 25th day of May, 2000.

H.B. 519 **SESSION LAW 2000-4**

AN ACT TO ALLOW HENDERSON COUNTY TO ADJUST THE BOUNDARIES OF CHAPTER 69 FIRE TAX DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 69-25.11, the boundaries of any fire protection district in Henderson County established under Article 3A of Chapter 69 of the General Statutes may be changed by resolution of the Board of Commissioners of Henderson County to follow the boundaries shown on the map in Attachment A to a resolution adopted by that board on March 17, 1999.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of May, 2000.

Became law on the date it was ratified.

H.B. 1153 **SESSION LAW 2000-5**

AN ACT TO AUTHORIZE THE NORTH CAROLINA MEDICAL BOARD TO ISSUE LIMITED VOLUNTEER LICENSES TO RETIRED PHYSICIANS WHO PROVIDE MEDICAL SERVICES TO INDIGENT PATIENTS WITHOUT COMPENSATION AND TO LIMIT THE LIABILITY OF SUCH RETIRED PHYSICIANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-12 is amended by adding the following new subsection to read as follows:

"*§ 90-12. Limited license; limited volunteer license.*

(a) The Board may, whenever in its opinion the conditions of the locality where the applicant resides are such as to render it advisable,

make any modifications of the requirements of G.S. 90-9, 90-10, and 90-11 as in its judgment the interests of the people living in that locality may demand, and may issue to the applicant a special license, to be entitled a "Limited License," authorizing the holder of the limited license to practice medicine and surgery within the limits only of the districts specifically described therein. A resident's training license shall expire at the time its holder ceases to be a resident in the training program or obtains any other license to practice medicine issued by the Board. The holder of the limited license practicing medicine or surgery beyond the boundaries of the districts as laid down in said license shall be guilty of a Class 3 misdemeanor, and upon conviction shall only be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each and every offense; and the Board may revoke the limited license, in its discretion, after due notice.

(b) As used in subsection (a) of this section:

(1) "Limited license" includes a resident's training license.

(2) "Resident training license" means a license to practice in a medical education and training program, approved by the Board, for the purpose of education or training.

(c) The Board shall issue to an applicant a special license to be entitled a "Limited Volunteer License," authorizing the holder of the limited license to practice medicine and surgery only at clinics which specialize in the treatment of indigent patients. The holder of a limited license issued pursuant to this subsection may not receive compensation for services rendered at clinics specializing in the care of indigent patients. The Board shall issue a limited license under this subsection to an applicant who:

(1) Has a license to practice medicine and surgery in another state;

(2) Produces a letter from the state of licensure indicating the applicant is in good standing; and

(3) Is authorized to treat personnel enlisted in the United States armed services or veterans.

The Board shall issue a limited license under this subsection within 30 days after an applicant provides the Board with information satisfying the requirements of this subsection.

The holder of a limited license issued pursuant to this subsection who practices medicine or surgery at places other than clinics which specialize in the treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction, shall only be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each and every offense; and the Board may revoke the limited license, in its discretion, after due notice.

(d) The Board may issue a "Limited Volunteer License" as authorized in subsection (c) of this section to an applicant who is a retired physician and has allowed his or her license to practice medicine and surgery in this State or another state to become inactive. Physicians holding a "Limited Volunteer License" under this

subsection shall comply with the continuing medical education requirements adopted by the Board."

Section 2. G.S. 90-15 reads as rewritten:

"*§ 90-15. License fee; salaries, fees, and expenses of Board.*

Each applicant for a license by examination shall pay to the North Carolina Medical Board a fee which shall be prescribed by the Board in an amount not exceeding the sum of four hundred dollars ($400.00) plus the cost of test materials before being admitted to the examination. Whenever a license is granted without examination, as authorized in G.S. 90-13, the applicant shall pay to the Board a fee in an amount to be prescribed by the Board not in excess of two hundred fifty dollars ($250.00). Whenever a limited license is granted as provided in G.S. 90-12, the applicant shall pay to the Board a fee not to exceed one hundred fifty dollars ($150.00), except where a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training is granted, the applicant shall pay a fee of twenty-five dollars ~~($25.00).~~ ($25.00), and where a limited license to practice medicine and surgery only at clinics that specialize in the treatment of indigent patients is granted, the applicant shall not pay a fee. A fee of twenty-five dollars ($25.00) shall be paid for the issuance of a duplicate license. All fees shall be paid in advance to the North Carolina Medical Board, to be held in a fund for the use of the Board. The compensation and expenses of the members and officers of the Board and all expenses proper and necessary in the opinion of the Board to the discharge of its duties under and to enforce the laws regulating the practice of medicine or surgery shall be paid out of the fund, upon the warrant of the Board. The per diem compensation of Board members shall not exceed two hundred dollars ($200.00) per day per member for time spent in the performance and discharge of duties as a member. Any unexpended sum or sums of money remaining in the treasury of the Board at the expiration of the terms of office of the members of the Board shall be paid over to their successors in office.

For the initial and annual registration of an assistant to a physician, the Board may require the payment of a fee not to exceed a reasonable amount."

Section 3. G.S. 90-15.1 reads as rewritten:

"*§ 90-15.1. Registration every year with Board.*

Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday. A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay a registration fee fixed by the Board not in excess of one hundred dollars ($100.00). A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status. For purposes of annual registration, the Board shall use a simplified registration form which allows registrants to confirm

information on file with the Board. A physician who fails to register as required by this section shall pay an additional fee of twenty dollars ($20.00) to the Board. The license of any physician who fails to register and who remains unregistered for a period of 30 days after certified notice of the failure is automatically inactive. ~~A~~ Except as provided in G.S. 90-12(d), a person whose license is inactive shall not practice medicine in North Carolina nor be required to pay the annual registration fee. Upon payment of all accumulated fees and penalties, the license of the physician may be reinstated, subject to the Board requiring the physician to appear before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the maximum fee for a license under G.S. 90-13."

Section 4. G.S. 90-21.14(a1) reads as rewritten:

"(a1) (1) Any volunteer medical or health care provider at a facility of a local health department or at a nonprofit community health ~~center;~~ center.

(2) Any volunteer medical or health care provider rendering services to a patient referred by a local health department as defined in G.S. 130A-2(5) or nonprofit community health center at the provider's place of ~~employment; or~~ employment.

(3) Any volunteer medical or health care provider serving as medical director of an emergency medical services (EMS) ~~agency,~~ agency.

(4) Any retired physician holding a "Limited Volunteer License" under G.S. 90-12(d),

who receives no compensation for medical services or other related services rendered at the facility, center, ~~or agency or,~~ agency, or clinic, or who neither charges nor receives a fee for medical services rendered to the patient referred by a local health department or nonprofit community health center at the provider's place of employment shall not be liable for damages for injuries or death alleged to have occurred by reason of an act or omission in the rendering of the services unless it is established that the injuries or death were caused by gross negligence, wanton conduct, or intentional wrongdoing on the part of the person rendering the services. The local health department facility, nonprofit community health center, or agency shall use due care in the selection of volunteer medical or health care providers, and this subsection shall not excuse the health department facility, community health center, or agency for the failure of the volunteer medical or health care provider to use ordinary care in the provision of medical services to its patients."

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of May, 2000.

Became law upon approval of the Governor at 1:03 p.m. on the 6th day of June, 2000.

S.B. 1283 **SESSION LAW 2000-6**

AN ACT TO CORRECT THE CANDIDATE FILING DEADLINE FOR THE ASHE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 128 of the 1995 Session Law reads as rewritten:

"Section 1. Notwithstanding the provisions of G.S. 115C-37, the Ashe County Board of Education shall be elected on a nonpartisan basis at the time set by G.S. 163-1 for the general election in each even-numbered year as terms expire. The election shall be conducted on a nonpartisan plurality basis, with the results determined in accordance with G.S. 163-292. Candidates shall file notices of candidacy not earlier than noon on the first Monday in June and not later than noon on the ~~last~~ first Friday in July. The names of the candidates shall be printed on the ballot without reference to any party affiliations. Except as provided by this act, the election shall be conducted in accordance with the applicable provisions of Chapters 115C and 163 of the General Statutes."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of June, 2000.

Became law on the date it was ratified.

S.B. 1301 **SESSION LAW 2000-7**

AN ACT TO PLACE A MORATORIUM ON ANNEXATIONS AND INCORPORATION IN A DESIGNATED AREA OF CABARRUS COUNTY.

The General Assembly of North Carolina enacts:

Section 1. No annexation ordinance shall be adopted under Part 2 or 3 of Article 4A of Chapter 160A of the General Statutes nor any incorporation act shall be enacted by the General Assembly as to any or all of the following described territory prior to June 30, 2010:

Beginning at a nail and cap in the intersection of centerlines for US Highway #601 and NC State Road #1119 (Wallace Road), a corner of the Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1758 Page 235), said beginning point being located N33°-13'-32"E-3,864.92' from NCGS Monument "Kiser"(Grid Coordinates: N536,271.92 feet; El,546,207.01 feet) (Combined Grid Factor = 0.999851569); thence from the point of the beginning and with the property line of Midland Industrial Park and the centerline of US Highway #601 the following (4) courses and distances, (1) S33°-31'-36"W - 23.13' to a railroad spike, (2) S32°-

35'-59"W - 29.95' to a nail and cap, (3) S32°-44'-27"W - 574.41' to a point, (4) S32°-58'-24"W - 1719.80' to a point in the centerline of US Highway #601, the northeast corner of Corning Incorporated (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1758 Page 240); thence with the Corning Incorporated Property Line the following (9) courses and distances, (1) S32°-58'-24"W - 229.80' to a nail and cap, (2) N66°-03'-45"W - 50.23' to a 5/8" rebar, (3) S32°-56'-23"W - 1,628.41' to a concrete monument, (4) S32°-21'-17"W - 35.84' to a concrete monument, (5) S32°-55'-31"W - 591.41' to a concrete monument, (6) S64°-25'-16"E - 49.59' to a 5/8" rebar, (7) with the arc of a circular curve to the left, having a radius of 3,127.0' a distance of 551.05', and a chord distance and bearing S27°-59'-25"W - 550.34' to a point, (8) S21°-55'-46"W - 215.04' to a point, (9) S21°-35'-34"W - 369.74' to a point in the centerline of US Highway #601, the northeast corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1793 Page 22); thence with the centerline of US HIghway #601 and the property line of the Midland Industrial Park the following (2) courses and distances (1) S21°-34'-23"W - 233.73' to a point, (2) S21°-27'-48"W - 700.05' to a point in the centerline of US Highway #601; thence N71°-52'-10"W(passing irons at 50.22' and 436.37') for a total of 823.33' to an iron pin, said iron pin being the northeast corner of the property owned by Midland Industrial Park (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1686 Page 313); thence with the property line of Midland Industrial Park the following (6) courses and distances (1) S21°-33'-31"W - 17.42' to an iron pin, (2) S27°-16'-50"W - 1134.60' to iron pin, (3) N72°-14'-53"W - 154.76' to an iron pin, (4) N 52°-37'-30"W 1021.85' to a railroad iron, (5) N45°-59'-15"W - 228.96' to an iron pin, (6) N36°-35'-34"E - 739.91' to a nail, said nail being the southwest corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1793 Page 22); thence with the property line of Midland Industrial Park N16°-09'-42"E - 1,126.41' to a 1 1/2" OT Iron Pipe, said 1 1/2" OT Iron Pipe being the southwest corner of the property owned by Corning Incorporated (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1758 Page 240); thence with the property line of Corning Incorporated the following (8) courses and distances (1) N16°-32'-58"E - 1,166.94' to an iron pin, (2) N06°-09'-53"E - 154.65' to an iron pin, (3) S78°-05'-55"E - 918.49' to an iron pin, (4) N03°-11'-46"W - 606.49' to a concrete monument, (5) N03°-11'-50"W - 455.25' to a concrete monument, (6) S75°-17'-59"E - 698.98' to concrete monument, (7) N28°-19'-00"E - 839.70' to a concrete monument, (8) N28°-26'-05"E - 182.50' to an iron pin, said iron pin being the southwest corner of the property owned by the BOC Group, Inc. (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 2476 Page 13); thence with the property line of The BOC Group, Inc. property the following (2) courses and distances (1)

N28°-43'-57"E - 21.15' to an iron pipe, (2) N30°-08'-05"E - 1,107.12' to an iron pin, said iron pin being the southwest corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1758 Page 235; thence with the property line of Midland Industrial Park N30°-08'-05"E - 498.50' to a railroad spike in the centerline of NC State Road #1119 (Wallace Road), said railroad spike being a point in the southern property line of McGee Brothers, Inc., (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 2097 Page 237) thence with the McGee Brothers, Inc. Property line and the centerline of Wallace Road S74°-55'-16"W - 28.98' to a nail and cap in the centerline of Wallace Road, said nail and cap being the southeast corner of the property owned by McGee Brothers, Inc. (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1845 Page 30) thence with the property line of McGee Brothers, Inc. the following (2) courses and distances (1) S75°-55'-53"W - 116.87' to a nail and cap in the centerline of Wallace Road, (2) N01°-59'-43"W - 580.41' to an iron, said iron being the southwest corner of the property owned by McGee Brothers, Inc. (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1870 Page 281) thence with the following (2) courses and distances (1) N01°-59'-43"W - 907.00' to an iron, (2) N01°-59'-43"W - 569.70' to an iron, said iron being a corner in the southern property line of the property owned by McGee Brothers, Inc. (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1870 Page 277) thence with the property line of McGee Brothers, Inc. the following (4) courses and distances (1)S82°-37'-48"W - 537.64' to an iron pin, (2) N64°-33'-35"W - 261.87' to an iron Pipe, (3) N62°-37'-54"E - 332.08' to an iron pipe, (4) N49°-08'-49"W - 526.15' to a pk nail in the centerline of the Norfolk Southern Railroad, said pk being located 930.00 feet west of Mile Post 369 as measured along said Railroad centerline and being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 498 Page 7) thence with the property line of Midland Industrial Park the following (6) courses and distances (1) N49°-08'-49"W - 169.61' to an iron pin, (2) N32°E - 1254' to a stone, (3) N22°E 1683' to a large Black Oak, (4) S58°E - 511.5' to a stone, (5) S30°W - 66' to a stone, (6) S33°E - 1864' to an iron stake, said iron stake being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1877 Page 245) thence with the property line of Midland Industrial Park the following (3) courses and distances (1) N51°-38'E - 427.3' to an iron stake on the south bank of the north fork of Muddy Creek, (2) S72°-28'E - 360.2' to an iron stake located 25" north from the channel of Muddy Creek, (3) S21°-52'W - 272.8" to an axle on the bank of Muddy Creek, said axle being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 563 Page 52) thence with the property line of Midland Industrial Park the following

(3) courses and distances (1) S73°-14'-10"E - 1245.10' to an iron pin, (2) S19°-31'-28"W - 247.88' to a pk nail in the centerline of a paved drive, (3) N73°-15'-32"W - 637.28' to a point in the centerline of Muddy Creek (passing an iron pin at 622.51'), said point being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1877 Page 245) thence down the centerline of Muddy Creek and the property line of Midland Industrial Park the following (11) courses and distances (1) S07°-56'-54"E - 85.40' to a point, (2) S11°-54'-39"E - 54.25' to a point, (3) S19°-40'-09"E - 59.15' to a point, (4) S38°-30'-32"E - 105.00' to a point, (5) S01°-50'-11"W - 67.10' to a point, (6) S07°-27'-46"E - 133.88' to a point, (7) S01°-14'-09"E - 97.95' to a point, (8) S25°-18'-49"W - 129.28' to a point, (9) S08°-39'-17"W - 60.00' to a point, (10) S11°-23'- 11"W - 187.54' to a point, (11) S39°-54'-47"E - 75.37' to a pk nail in the centerline of the Norfolk Southern Railway track and the centerline of Muddy Creek, said pk nail being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 531 Page 338) thence down the centerline of Muddy Creek and with the property line of the Midland Industrial Park to the intersection of the centerline of US Highway #601; thence with the centerline of US Highway #601 to the point of beginning, containing 608.63 acres plus or minus.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of June, 2000.

Became law on the date it was ratified.

H.B. 1494 **SESSION LAW 2000-8**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF LAUREL PARK.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Laurel Park is revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF LAUREL PARK.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Laurel Park, North Carolina, in Henderson County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Town of Laurel Park', hereinafter at times referred to as the 'Town'.

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Laurel Park specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the office of the Henderson County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body; Composition.** The Town Council hereinafter referred to as the 'Council', and the Mayor shall be the governing body of the Town.

"Section 2.2. **Town Council; Composition; Terms of Office.** The Council shall be composed of four members to be known as Commissioners, to be elected by all the qualified voters of the Town, for staggered terms of four years or until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government and preside at meetings of the Council, shall have the right to vote only when there is an equal division on any question or matter before the Council, and shall exercise the powers and duties conferred by law or as directed by the Council.

"Section 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Council.

"Section 2.5. **Meetings.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Council and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Commissioners shall be in accordance with general law. Vacancies shall be filled as provided in G.S. 160A-63.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections

shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in the regular municipal election in 2003 and each four years thereafter.

"Section 3.3. **Election of Commissioners.** Except for the filing of vacancies as provided for in G.S. 160A-63, two Commissioners shall be elected at the regular municipal election in 2001 and every four years thereafter and two Commissioners shall be elected at the regular municipal election in 2003 and every four years thereafter. In the regular municipal election in 2001, and in each regular municipal election thereafter, persons shall be elected to serve four-year terms in those positions whose terms are then expiring.

"Section 3.4. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. TOWN MANAGER.

"Section 4.1. **Form of Government.** The Town shall operate under the Council-Manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Manager; Appointment; Powers and Duties.** The Council shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Council, so far as authorized by general law.

"ARTICLE V. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Section 5.1. **Town Attorney.** The Town Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Council may direct.

"Section 5.2. **Town Clerk.** The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Town Manager may direct. The Town Manager may appoint one or more Assistants and/or Deputy Town Clerks.

"Section 5.3. **Tax Collector.** The Town shall have a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Town Manager. Notwithstanding the contrary provisions of G.S 105-349, the Town Manager is authorized to appoint the Tax Collector and one or more Deputy Tax Collectors.

"Section 5.4. **Other Administrative Officers and Employees.** The Council may authorize other positions to be filled by appointment by the Town Manager and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Section 5.5. **Manager's Authority; Role of Elected Officials.** As chief administrator, the Town Manager shall have the power to appoint, suspend, and remove all nonelected officers, department heads, and employees of the Town, except the Town Attorney, who shall be appointed as provided in Section 5.1 of this Charter. Neither the Mayor nor the Town Council nor any of its committees or members shall take part in the appointment or removal of officers, department heads, and employees in the administrative service of the Town, except as provided by this Charter. Except for the purpose of inquiry, or for consultation with the Town Attorney, the Mayor and the Town Council and its members shall deal with officers and employees in the administrative service of the Town only through the Town Manager, Acting Manager, or Interim Manager, and neither the Mayor nor the Council nor any of its members shall give orders or directions to any subordinate of the Town Manager, Acting Manager, or Interim Manager, either publicly or privately.

"ARTICLE VI. ANNEXATION AGREEMENTS.

"Section 6.1. **Annexation and Payment in Lieu of Tax Agreements.** The authority of the Town to enter into annexation and payment in lieu of tax agreements shall continue as authorized by Chapter 188, Session Laws of 1997, and any subsequent acts."

Section 2. The purpose of this act is to revise the Charter of the Town of Laurel Park and to consolidate certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Section 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 100, Private Laws of 1925, except for Section 7
Chapter 108, Private Laws of 1925
Chapter 103, Private Laws of 1927
Chapter 174, Private Laws of 1933
Chapter 204, Private Laws of 1935
Chapter 262, Private Laws of 1935
Chapter 622, Session Laws of 1947
Chapter 95, Session Laws of 1961
Chapter 348, Session Laws of 1987
Chapter 336, Session Laws of 1989
Chapter 878, Session Laws of 1989
Chapter 559, Session Laws of 1991.

Section 5. The Mayor and Commissioners serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified. Thereafter those

offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

Section 6. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Section 7. All existing ordinances, resolutions, and other provisions of the Town of Laurel Park not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Section 8. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Section 9. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended law, or to the law which most clearly corresponds to the statutory provision which is superseded or recodified.

Section 11. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of June, 2000.

Became law on the date it was ratified.

H.B. 1517 **SESSION LAW 2000-9**

AN ACT TO ENABLE THE COUNTY OF CALDWELL, THE COUNTY OF BURKE, THE CITY OF LENOIR, AND THE CITY OF MORGANTON TO JOINTLY ESTABLISH AN AIRPORT AUTHORITY AND TO PROVIDE FOR THE JOINT MAINTENANCE AND CONTINUING OPERATION OF THE EXISTING AIRPORT NOW OPERATED BY THE MORGANTON-LENOIR AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Creation. There is created the "Foothills Regional Airport Authority" (for brevity hereinafter referred to as the "Airport Authority") which, when duly established as provided for in this act, shall be both a body politic and corporate, having all of the following enumerated powers and jurisdiction as well as any other additional powers that may be conferred upon it by the general law and by act of the General Assembly.

Section 2. Joint Airport Established. The governing bodies of the County of Caldwell, the County of Burke, the City of Morganton, and the City of Lenoir, (jointly referred to as the "governing bodies") may jointly acquire, establish, construct, own, control, lease, equip,

improve, maintain, operate, and regulate an airport or landing field for the use of airplanes and other aircraft and may use for these purposes any suitable property that is now or may at any time be jointly owned or controlled by those cities or counties or by the Airport Authority.

The Airport Authority authorized by this act shall be successor in interest to the Morganton-Lenoir Airport Authority and when it is established, the Morganton-Lenoir Airport Authority shall cease to exist. As successor in interest, the Airport Authority shall be the beneficiary of, and shall be bound by all existing contracts, agreements, licenses, permits, loans, grants, appropriations, and gifts of any kind and shall be subject to all applicable rules and regulations issued by any regulatory body having jurisdiction over aeronautical activities.

Section 3. Authority Membership and Procedures.

(a) Membership. The Airport Authority shall consist of eight members who shall be residents of either Burke or Caldwell County and who shall be appointed for staggered terms as provided in this act. Each of the governing bodies shall appoint two members, one of which shall be an elected official.

(b) Term. The term for any member shall extend for a period of two years except that for the initial appointments to the Airport Authority, each governing body shall designate one appointment as a two-year term and one appointment as a one-year term. Thereafter all terms shall be for a full two years. Members may succeed themselves in office and may serve for more than one term.

All members of the Airport Authority shall continue to hold office until their successors have been appointed and are qualified by the taking of the oath of office.

(c) Oath. Each member shall take and subscribe to an oath of office before an official authorized to administer oaths before assuming duties.

(d) Vacancies. The governing body making the initial or any subsequent appointment of a member shall also have the right to fill any vacancy created by the resignation, removal, incapacity, or death of that member. A member appointed to fill a vacancy shall serve the unexpired term and shall be eligible for reappointment.

(e) Organizational Meeting. The Airport Authority shall hold an organizational meeting immediately after being established and each year thereafter. At the organizational meeting, the membership shall elect from its number a chairman and any other officers, may establish a regular meeting time and place, appoint standing committees and organize itself for the purpose of transacting business. An administrative secretary may be appointed for the purpose of maintaining records, keeping minutes and other administrative duties, and it shall not be required that such person be a member of the Airport Authority.

(f) Meetings. The Airport Authority shall hold regular meetings for the transaction of its business at a place and at times that the

Authority determines appropriate. Special meetings may be held at any time when the chairman or any two members of the Airport Authority shall request a special meeting.

(g) Notice of Meetings. Proper notice for all meetings shall be given and the Airport Authority shall comply with all applicable requirements of Article 33C of Chapter 143 of the General Statutes commonly known as the "Open Meetings Law".

(h) Records. The Airport Authority shall keep a full record of its proceedings and minutes of its meetings showing the business transacted at each meeting.

(i) Quorum. A majority of the membership of the Airport Authority, excluding vacant seats, shall constitute a quorum for the transaction of business.

(j) Voting. No member shall be excused from voting except upon matters involving the consideration of his or her own financial interest or official conduct, and in all other cases a failure to vote by a member who is physically present or who has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote.

(k) Approval. An affirmative vote equal to a majority of all the members present at which a quorum of the Airport Authority is also present and not excused from voting on a matter shall be required to take action.

(l) Bylaws. The Airport Authority may adopt suitable bylaws for its management and may establish committees and advisory boards as it deems expedient.

(m) Removal. A member may be removed from the Airport Authority by the governing body making the original appointment, but no member shall be removed except for good cause.

Section 4. Liability. Members of the Airport Authority shall not be personally liable for their acts as members of the Airport Authority, except for acts resulting from misfeasance or malfeasance.

Section 5. Powers. (a) The Airport Authority shall be and constitute a body politic and corporate and as such shall have the following powers and authority:

(1) To purchase, acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports and landing fields for the use of airplanes and other aircraft and to engage in other lawful aeronautical activities.

The Airport Authority may exercise these powers alone or in conjunction with its participating governing bodies.

(2) To purchase, improve, own, hold, lease (as lessor or lessee), mortgage, issue deeds of trust, grant security interests in, or operate real or personal property of every kind.

(3) To engage in economic development activities including the development, division and redivision of surplus property (property that is not necessary for the operation of the

airport) as an industrial and/or commercial park or the sale of such property for industrial and/or commercial uses, but shall not be sold for investment and speculative purposes.

(4) To sue and to be sued in the name of the Airport Authority, to make contracts and to hold any personal property necessary for the exercise of the powers of the Airport Authority, and to acquire by purchase, lease, or otherwise any existing lease, leasehold right, or any other interest in any existing airport, specifically including the Morganton-Lenoir Airport.

(5) To charge and collect reasonable and adequate fees and rents for the use of airport property and for services rendered in the operation of the airport.

(6) To make all reasonable rules and regulations deemed necessary for the proper maintenance, use, operation and control of the airport, including public safety, and provide penalties for the violation of its rules and regulations; provided, the rules and regulations and the schedule of fees are not in conflict with the laws of the State of North Carolina and any rules or regulations lawfully issued by the Federal Aviation Administration. The Airport Authority may administer and enforce any airport zoning regulations adopted by Burke County and Caldwell County.

(7) To issue notes and bonds pursuant to Article 5 of Chapter 159 of the General Statutes and purchase and finance the purchase of real or personal property by installment contracts and other means of indebtedness authorized by G.S. 160A-20.

(8) To sell, lease, and otherwise dispose of any property, real or personal, belonging to the Airport Authority, according to the procedures described in Article 12 of Chapter 160A of the General Statutes.

(9) To purchase any insurance that the Federal Aviation Administration or the Airport Authority shall deem necessary or expedient, and the Airport Authority shall be responsible for any and all insurance claims or liabilities.

(10) To deposit, invest and reinvest any of its funds as provided by the Local Government Finance Act, as it may be amended or superseded from time to time, for the deposit or reinvestment of unit funds.

(11) To purchase any of its outstanding bonds or notes.

(12) To operate, own, lease, control, regulate, or to grant to others, for a period not to exceed 20 years, the right to operate on any airport premises restaurants, snack bars, vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandising outlets, hotels, motels, barbershops, automobile parking and storage facilities, automobile service establishments, and all

other types of facilities as may be directly or indirectly related to aeronautical activities or to the maintenance and furnishing to the general public of a complete air terminal installation.

(13) To contract with persons, firms, or corporations for terms not to exceed 20 years, for the operation of airline scheduled passenger and freight flights, nonscheduled flights, and any other aeronautical activities, including a fixed-base operator, provided such activities are not inconsistent with grant agreements under which the airport property is held.

(14) To erect and construct buildings, hangars, shops, and other improvements and facilities and to lease those improvements and facilities for term or terms not to exceed 20 years; to borrow money for the use in making and paying for these improvements and facilities, secured by and on the credit only of the lease agreements in respect to these improvements and facilities and to pledge and assign the lease and the lease agreement as security for the authorized loans.

(15) Notwithstanding anything in this act to the contrary, to have all the same power and authority granted to cities and counties pursuant to Chapter 63 of the General Statutes.

(16) To acquire property by the exercise of eminent domain pursuant to Chapter 40A of the General Statutes as a local public condemnor, including specifically the provisions of G.S. 40A-42.

(17) To have a corporate seal which may be altered at will.

Section 5.(b) The Airport Authority shall not have the power to pledge the credit of, or issue debt binding on, Caldwell County, Burke County, the City of Morganton, or the City of Lenoir, nor impose any obligations on those bodies except as may be specifically consented to by the respective governing body by the adoption of a resolution or ordinance. The governing bodies (either collectively or singularly) shall not be liable for the debt and other obligations of the Airport Authority.

Section 6. Exemption From Taxes. The Airport Authority shall possess and have the same exemptions in respect to the payment of taxes and license fees as provided for municipal corporations by the laws of the State of North Carolina. The Airport Authority is also allowed a refund of sales and use taxes as provided in G.S. 105-164.14(c).

Section 7. Real and Personal Property. The Airport Authority may acquire from any of the participating governmental bodies, and the participating governing bodies may grant and convey, either by gift or for such consideration as the governing body may deem expedient, any real or personal property which it now owns or may hereafter acquire, all without compliance with Article 12 of Chapter 160A of the General Statutes.

Section 8. Public Purpose. Any lands acquired, owned, controlled, or occupied by the Airport Authority shall be and are hereby declared to be acquired, owned, controlled, and occupied for a public purpose.

Section 9. Other Grants. The Airport Authority may apply for, contract with, accept and expend loans, grants, and other appropriations from the Federal Aviation Administration, the State of North Carolina, or any other public or private body or agency.

Section 10. Appropriations. The City of Lenoir, the City of Morganton, the County of Burke, and the County of Caldwell may appropriate funds derived from any source including ad valorem taxes to carry out the provisions of this act in any proportion or upon any basis as each may determine is appropriate, and the Airport Authority may expend such funds for airport purposes and may pledge the credit of the Airport Authority to the extent of the appropriated funds but only in compliance with the terms and conditions attached to any such appropriation.

Section 11. Withdrawal. Except with the unanimous consent of the other governing bodies, a governing body may only withdraw from the Airport Authority by giving written notice to the other governing bodies at least five years in advance of the effective date of the withdrawal. The failure to appropriate its pro rata share of the operating and capital needs of the Airport Authority or to participate in the affairs of the Airport Authority by the appointment of its members, shall be deemed to be a withdrawal from the Airport Authority.

The withdrawal by any governing body with the consent of the remaining governing bodies shall be upon the terms and conditions as may be agreed upon; however, any withdrawal without consent shall be a forfeiture of all rights and claims against the Airport Authority and its assets and property except for property interests that may be specifically and separately titled to the withdrawing governing body.

Section 12. Dissolution. The Airport Authority shall not be dissolved nor shall the operation of the airport be terminated or suspended except with the consent of a majority three of the governing bodies. The consent authorizing the dissolution of the Airport Authority or the suspension and termination of aeronautical activities shall be in the form of a joint resolution to be presented and acted on by each of the governing bodies, and the resolution shall set forth in full detail the plan for the dissolution of the Airport Authority and the suspension and termination of aeronautical activities, including any plan for the sale of any remaining property, the payment of all debts and obligations and the application of the fund remaining after the payment of all debts and obligations.

Section 13. Effective Date of Airport Authority. The powers granted to the Airport Authority shall not be effective and the Airport Authority authorized by this act shall not be officially established until the adoption of an ordinance or resolution by each of the governing bodies named above approving the creation of the joint airport and

appointing its members. Thereafter, however, the governing bodies shall be bound by the provisions of this act.

Section 14. Effective Date. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of June, 2000.

Became law on the date it was ratified.

S.B. 1189 **SESSION LAW 2000-10**

AN ACT AMENDING THE CHARTER OF THE TOWN OF CHINA GROVE TO ALLOW THE TOWN TO OPERATE UNDER THE COUNCIL-MANAGER FORM OF GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of China Grove, being Chapter 309 of the Private Laws of 1903, is amended by adding a new section to read:

"Sec. 4A. Notwithstanding any other provision of this Charter, the town shall operate under the council-manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of June, 2000.

Became law on the date it was ratified.

H.B. 1497 **SESSION LAW 2000-11**

AN ACT AMENDING THE STATUTORY DEFINITION OF "SUBDIVISION" FOR THE PURPOSE OF SUBDIVISION REGULATION IN RICHMOND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-335 reads as rewritten:

"*§ 153A-335. "Subdivision" defined.*

For purposes of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

(1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;

(2) The division of land into parcels greater than ~~10~~ five acres if no street right-of-way dedication is involved;
(3) The public acquisition by purchase of strips of land for widening or opening streets; and
(4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations."

Section 2. This act applies to Richmond County only.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of June, 2000.

Became law on the date it was ratified.

H.B. 1542 **SESSION LAW 2000-12**

AN ACT TO ADD CAMDEN COUNTY TO THOSE COUNTIES IN WHICH IT IS UNLAWFUL TO REMOVE OR DESTROY ELECTRONIC COLLARS ON DOGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-401.17 reads as rewritten:

"*§ 14-401.17. Unlawful removal or destruction of electronic dog collars.*

(a) It is unlawful to intentionally remove or destroy an electronic collar or other electronic device placed on a dog by its owner to maintain control of the dog.

(b) A first conviction for a violation of this section is a Class 3 misdemeanor. A second or subsequent conviction for a violation of this section is a Class 2 misdemeanor.

(c) This act is enforceable by officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and peace officers with general subject matter jurisdiction.

(d) This act applies only to Alamance, Avery, Beaufort, Brunswick, Buncombe, Burke, Caldwell, Camden, Caswell, Cherokee, Clay, Columbus, Craven, Cumberland, Davidson, Graham, Haywood, Henderson, Hyde, Jackson, Macon, Madison, McDowell, Mecklenburg, Mitchell, New Hanover, Orange, Pasquotank, Pitt, Robeson, Rockingham, Swain, Transylvania, Union, Wilkes, and Yancey Counties."

Section 2. This act becomes effective December 1, 2000, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 19th day of June, 2000.

Became law on the date it was ratified.

H.B. 1552 **SESSION LAW 2000-13**

AN ACT TO ALLOW THE CITY OF LAURINBURG TO LEVY SPECIAL ASSESSMENTS FOR STREET OR SIDEWALK IMPROVEMENTS WITHOUT PETITION.

The General Assembly of North Carolina enacts:

Section 1. The provisions of G.S. 160A-217(a) and (c) do not apply to the City of Laurinburg. The remaining provisions of Article 10 of Chapter 160A of the General Statutes shall apply to the City when making special assessments for street or sidewalk improvements.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of June, 2000.

Became law on the date it was ratified.

H.B. 1688 **SESSION LAW 2000-14**

AN ACT TO ALLOW CURRITUCK COUNTY TO REGULATE PERSONAL WATERCRAFT OPERATION.

The General Assembly of North Carolina enacts:

Section 1. A county may adopt ordinances to regulate personal watercraft operation in the Atlantic Ocean and other waterways in and adjacent to the county. The governing board of a municipality within the county may by resolution permit a county ordinance adopted pursuant to this act to be applicable within the municipality consistent with the provisions of G.S. 153A-122.

Section 2. This act applies only to Currituck County.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of June, 2000.

Became law on the date it was ratified.

H.B. 1541 **SESSION LAW 2000-15**

AN ACT TO MAKE IT A CRIMINAL OFFENSE IN CAMDEN COUNTY TO OBTAIN AMBULANCE SERVICES WITH NO INTENT TO PAY FOR THOSE SERVICES OR TO MAKE AN UNNECESSARY AMBULANCE REQUEST AND TO AUTHORIZE CAMDEN COUNTY TO COLLECT AMBULANCE CHARGES THROUGH THE USE OF ATTACHMENT AND GARNISHMENT PROCEEDINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-111.2 reads as rewritten:

"*§ 14-111.2. Obtaining ambulance services without intending to pay therefor -- certain named counties.*

Any person who with intent to defraud shall obtain ambulance services without intending at the time of obtaining such services to pay, if financially able, any reasonable charges therefor shall be guilty of a Class 2 misdemeanor. A determination by the court that the recipient of such services has willfully failed to pay for the services rendered for a period of 90 days after request for payment, and that the recipient is financially able to do so, shall raise a presumption that the recipient at the time of obtaining the services intended to defraud the provider of the services and did not intend to pay for the services.

The section shall apply to Anson, Ashe, Beaufort, Caldwell, Camden, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Cumberland, Davie, Duplin, Durham, Forsyth, Gaston, Graham, Guilford, Haywood, Henderson, Hoke, Hyde, Iredell, Macon, Mecklenburg, Montgomery, Orange, Pasquotank, Person, Polk, Randolph, Robeson, Rockingham, Scotland, Stanly, Surry, Transylvania, Union, Vance, Washington, Wilkes and Yadkin Counties only."

Section 2. G.S. 14-111.3 reads as rewritten:

"§ *14-111.3. Making unneeded ambulance request in certain counties.*

It shall be unlawful for any person or persons to willfully obtain or attempt to obtain ambulance service that is not needed, or to make a false request or report that an ambulance is needed. Every person convicted of violating this section shall be guilty of a Class 3 misdemeanor.

This section shall apply only to the Counties of Ashe, Buncombe, Camden, Cherokee, Clay, Cleveland, Davie, Duplin, Durham, Graham, Greene, Haywood, Hoke, Macon, Madison, Polk, Robeson, Washington, Wilkes and Yadkin."

Section 3. G.S. 44-51.8 reads as rewritten:

"§ *44-51.8. Counties to which Article applies.*

The provisions of this Article shall apply only to Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bladen, Brunswick, Buncombe, Burke, Cabarrus, Camden, Caldwell, Caswell, Catawba, Chatham, Cherokee, Chowan, Cleveland, Columbus, Craven, Cumberland, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hertford, Hoke, Hyde, Iredell, Johnston, Jones, Lee, Lenoir, Lincoln, McDowell, Macon, Madison, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Onslow, Pasquotank, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Tyrrell, Union, Vance, Wake, Warren, Washington, Watauga, Wilkes, Wilson, Yadkin and Yancey Counties."

Section 4. This act becomes effective December 1, 2000, and applies only to Camden County. Sections 1 and 2 of this act apply only to offenses committed on or after December 1, 2000.

In the General Assembly read three times and ratified this the 20th day of June, 2000.

Became law on the date it was ratified.

H.B. 1545 **SESSION LAW 2000-16**

AN ACT TO CLARIFY THAT THE EXCISE TAX ON CONVEYANCES APPLIES TO TIMBER DEEDS AND CONTRACTS FOR THE SALE OF STANDING TIMBER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.30 reads as rewritten:

"*§ 105-228.30. (Effective July 1, 2000) Imposition of excise tax; distribution of proceeds.*

(a) An excise tax is levied on each instrument by which any interest in real property is conveyed to another person. The tax rate is one dollar ($1.00) on each five hundred dollars ($500.00) or fractional part thereof of the consideration or value of the interest conveyed. The transferor must pay the tax to the register of deeds of the county in which the real estate is located before recording the instrument of conveyance. If the instrument transfers a parcel of real estate lying in two or more counties, however, the tax must be paid to the register of deeds of the county in which the greater part of the real estate with respect to value lies.

The excise tax on instruments imposed by this Article applies to timber deeds and contracts for the sale of standing timber to the same extent as if these deeds and contracts conveyed an interest in real property.

(b) The register of deeds of each county must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county must credit one-half of the proceeds to the county's general fund and remit the remaining one-half of the proceeds, less the county's allowance for administrative expenses, to the Department of Revenue on a quarterly basis. A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. Of the funds remitted to it pursuant to this section, the Department of Revenue must credit seventy-five percent (75%) to the Parks and Recreation Trust Fund established under G.S. 113-44.15 and twenty-five percent (25%) to the Natural Heritage Trust Fund established under G.S. 113-77.7."

Section 2. This act becomes effective July 1, 2000, and applies to timber deeds and contracts for the sale of standing timber executed on or after that date.

In the General Assembly read three times and ratified this the 14th day of June, 2000.

Became law upon approval of the Governor at 1:30 P.m. on the 22nd day of June, 2000.

H.B. 1577 **SESSION LAW 2000-17**

AN ACT TO AUTHORIZE THE ADDITION OF BULLHEAD MOUNTAIN STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, Section 5 of Article XIV of the North Carolina Constitution states that it shall be a proper function of the State of North Carolina to acquire and preserve park, recreational, and scenic areas and, in every other appropriate way, to preserve as a part of the common heritage of this State its open lands and places of beauty; and

Whereas, the General Assembly enacted the State Parks Act in 1987, declaring that the State of North Carolina offers unique archaeological, geological, biological, scenic, and recreational resources, and that such resources are part of the heritage of the people of the State to be preserved and managed by those people for their use and for the use of their visitors and descendants; and

Whereas, Bullhead Mountain in Alleghany County contains examples of outstanding scenic beauty; is a key component of a major hawk migration corridor through North Carolina; would provide outstanding opportunities for the public to observe the natural phenomenon of bird migration; and has been found to possess biological, scenic, and recreational resources of statewide significance; and

Whereas, the North Carolina State Office of the National Audubon Society has expressed particular interest in the protection of Bullhead Mountain and is willing to partner with the State to provide long-term management for the site; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The General Assembly authorizes the Department of Environment and Natural Resources to add Bullhead Mountain State Natural Area to the State Parks System as provided in G.S. 113-44.14(b).

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of June, 2000.

Became law upon approval of the Governor at 1:27 p.m. on the 22nd day of June, 2000.

H.B. 133 **SESSION LAW 2000-18**

AN ACT TO EXEMPT FROM PROPERTY TAX MODIFIED MOTOR VEHICLES OWNED BY DISABLED VETERANS WHO ARE ELIGIBLE FOR FEDERAL SPECIAL EQUIPMENT ALLOWANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is amended by adding a new subdivision to read:

"(5a) A motor vehicle owned by a disabled veteran that is altered with special equipment to accommodate a service-connected disability. As used in this section, disabled veteran means a person as defined in 38 U.S.C. § 101(2) who is entitled to special automotive equipment for a service-connected disability, as provided in 38 U.S.C. § 3901."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2000.

In the General Assembly read three times and ratified this the 19th day of June, 2000.

Became law upon approval of the Governor at 1:51 p.m. on the 26th day of June, 2000.

H.B. 1326 **SESSION LAW 2000-19**

AN ACT TO DESIGNATE THE STATE SALES TAX REVENUE FROM DRY-CLEANING AND LAUNDRY SERVICES TO THE DRY-CLEANING SOLVENT CLEANUP FUND; TO INCREASE THE STATE SALES TAX ON DRY-CLEANING SOLVENTS; TO AMEND THE DRY-CLEANING SOLVENT CLEANUP ACT OF 1997 TO REPEAL THE REQUIREMENT OF FINANCIAL RESPONSIBILITY FOR DRY-CLEANING FACILITIES AND WHOLESALE DRY-CLEANING SOLVENT DISTRIBUTION FACILITIES; TO ALLOW THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ENTER INTO CONTRACTS WITH PRIVATE CONTRACTORS FOR ASSESSMENT AND REMEDIATION ACTIVITIES AT DRY-CLEANING FACILITIES AND WHOLESALE DRY-CLEANING SOLVENT DISTRIBUTION FACILITIES; TO DIRECT THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE USE OF DRY-CLEANING SOLVENTS IN NORTH CAROLINA, AND TO MAKE OTHER CHANGES IN THE DRY-CLEANING SOLVENT CLEANUP ACT OF 1997.

The General Assembly of North Carolina enacts:

Section 1.1. Article 5 of Chapter 105 of the General Statutes is amended to add a new section to read:

"*§ 105-164.44E. Transfer to the Dry-Cleaning Solvent Cleanup Fund.*

At the end of each quarter, the Secretary must transfer to the Dry-Cleaning Solvent Cleanup Fund established under G.S. 143-215.104C an amount equal to fifteen percent (15%) of the net State sales and use taxes collected under G.S. 105-164.4(a)(4) during the previous fiscal year, as determined by the Secretary based on available data."

Section 1.2. G.S. 105-187.31 reads as rewritten:

"*§ 105-187.31. (Repealed effective January 1, 2010.) Tax imposed.*

A privilege tax is imposed on a dry-cleaning solvent retailer at a flat rate for each gallon of dry-cleaning solvent sold by the retailer to a

dry-cleaning facility. An excise tax is imposed on dry-cleaning solvent purchased outside the State for storage, use, or consumption by a dry-cleaning facility in this State. The rate of the privilege tax and the excise tax is ~~five dollars and eighty-five cents ($5.85)~~ ten dollars ($10.00) for each gallon of dry-cleaning solvent that is chlorine-based and ~~eighty cents (80¢)~~ one dollar and thirty-five cents ($1.35) for each gallon of dry-cleaning solvent that is hydrocarbon-based. These taxes are in addition to all other taxes."

Section 1.3. G.S. 105-164.7 reads as rewritten:

"*§ 105-164.7. Sales tax part of purchase price.*

Every retailer ~~engaged in the business of selling or delivering or taking orders for the sale or delivery of tangible personal property for storage, use or consumption in this State~~ subject to the tax levied in G.S. 105-164.4 shall at the time of selling or delivering or taking an order for the sale or delivery of ~~said~~ taxable tangible personal property or a taxable service, or collecting the sales ~~price thereof or any part thereof,~~ price, add to the sales price ~~of such tangible personal property~~ the amount of ~~the~~ tax due. ~~on the sale thereof and when so added said~~ The tax ~~shall constitute~~ constitutes a part of ~~such~~ the purchase price, ~~shall be~~ is a debt from the purchaser to the retailer until ~~paid~~ paid, and ~~shall be~~ is recoverable at law in the same manner as other debts. ~~Said~~ The tax ~~shall~~ must be stated and charged separately from the sales ~~price and~~ price, shown separately on the retailer's sales ~~records~~ records, and ~~shall be~~ paid by the purchaser to the retailer as trustee for and on account of the ~~State and the~~ State. The retailer ~~shall be~~ is liable for the collection ~~thereof~~ of the tax and for its payment to the ~~Secretary and the~~ Secretary. The retailer's failure to charge to or collect ~~said~~ the tax from the purchaser ~~shall~~ does not affect ~~such~~ this liability. It is the ~~purpose and~~ intent of this Article that the tax ~~herein levied and imposed shall~~ be added to the sales price of tangible personal property and services when sold at retail and ~~thereby~~ be borne and passed on to the customer, instead of being borne by the retailer."

Section 2. G.S. 143-215.104C(b) reads as rewritten:

"(b) Sources of Revenue. -- The following revenue is credited to the Fund:

(1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105 of the General Statutes.
(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.
(3) Gifts and grants made to the Fund.
(4) Revenues credited to the Fund under G.S. 105-164.44E."

Section 3. G.S. 143-215.104B(b)(20), 143-215.104E, 143-215.104F(b)(3), 143-215.104F(d)(3), 143-215.104F(g), 143-215.104J(a)(5), 143-215.104P(a)(1), and Section 3 of S.L. 1997-392 are repealed.

Section 4. G.S. 143-215.104F(f) reads as rewritten:

"(f) Financial Responsibility Requirements. -- Each potentially responsible person who petitions the Commission to enter into a dry-

cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners. ~~The requirements in this subsection shall be in addition to any insurance or other financial responsibility, including deductibles or retentions, established pursuant to G.S. 143-215.104E.~~ The financial responsibility required shall be as follows:

~~Facility or Abandoned Site Where Release Occurred Costs~~

~~Dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year $5,000~~

~~Dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year $10,000~~

~~Dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year $15,000~~

~~Wholesale distribution facilities $25,000~~

~~Abandoned dry-cleaning facility sites $50,000.~~

(1) For dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, the first five thousand dollars ($5,000) of the costs of assessment or remediation and one percent (1%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding one million dollars ($1,000,000).

(2) For dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, the first ten thousand dollars ($10,000) of the costs of assessment or remediation, two percent (2%) of the costs of

assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%) of the costs of assessment or remediation in excess of five hundred thousand dollars ($500,000) but not exceeding one million dollars ($1,000,000).

(3) For dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, the first fifteen thousand dollars ($15,000) of the costs of assessment or remediation, three percent (3%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%) of the costs of assessment or remediation in excess of five hundred thousand dollars ($500,000) but not exceeding one million dollars ($1,000,000).

(4) For wholesale distribution facilities and abandoned dry-cleaning facility sites, the first twenty-five thousand dollars ($25,000) of the costs of assessment or remediation, three percent (3%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%) of the costs of assessment or remediation in excess of five hundred thousand dollars ($500,000) but not exceeding one million dollars ($1,000,000)."

Section 5. G.S. 143-215.104C(c) reads as rewritten:

"(c) Disbursements. -- A claim filed against the Fund may be paid only from monies in the Fund and only in accordance with the provisions of this Part. Any obligation to pay or reimburse claims against the Fund shall be expressly contingent upon availability of monies in the Fund. Neither the State nor any of its agencies shall have any obligation to pay or reimburse any costs for which monies are not available in the Fund. The provisions of this Part shall not constitute a contract, either express or implied, to pay or reimburse costs in excess of the monies available in the Fund. In making disbursements from the Fund, the Commission shall ~~pay the claims with the highest priority before claims of lower priority, and claims of equal priority in the order in which the facility or abandoned site was certified~~ obligate monies to facilities or abandoned sites with higher priority before facilities or abandoned sites of lower priority, and facilities or abandoned sites with equal priority in the order in which the facilities or abandoned sites were prioritized until the revenue is exhausted. Consistent with the provisions of this Part, the Commission may disburse monies from the Fund to abate imminent hazards caused by dry-cleaning solvent contamination at abandoned dry-cleaning facility sites that have not been certified. Up to twenty percent (20%) of the amount of revenue credited to the Fund in a year may be used to defray costs incurred by the Department and the Attorney General's

Office in connection with administration of the program described in this Part, including oversight of response activities."

Section 5.1. Effective July 1, 2001, G.S. 143-215.104(C)(c), as amended by Section 5 of this act, reads as rewritten:

"(c) Disbursements. -- A claim filed against the Fund may be paid only from monies in the Fund and only in accordance with the provisions of this Part. Any obligation to pay or reimburse claims against the Fund shall be expressly contingent upon availability of monies in the Fund. Neither the State nor any of its agencies shall have any obligation to pay or reimburse any costs for which monies are not available in the Fund. The provisions of this Part shall not constitute a contract, either express or implied, to pay or reimburse costs in excess of the monies available in the Fund. In making disbursements from the Fund, the Commission shall obligate monies to facilities or sites with higher priority before facilities or sites of lower priority, and facilities or sites with equal priority in the order in which the facilities or sites were prioritized until the revenue is exhausted. Consistent with the provisions of this Part, the Commission may disburse monies from the Fund to abate imminent hazards by dry-cleaning solvent contamination at abandoned dry-cleaning facility sites that have not been certified. Up to ~~twenty percent (20%)~~ forty percent (40%) of the amount of revenue credited to the Fund in a year may be used to defray costs incurred by the Department and the Attorney General's Office in connection with administration of the program described in this Part, including oversight of response activities."

Section 5.2. Effective July 1, 2002, G.S. 143-215.104C(c), as amended by Sections 5 and 5.1 of this act, reads as rewritten:

"(c) Disbursements. -- A claim filed against the Fund may be paid only from monies in the Fund and only in accordance with the provisions of this Part. Any obligation to pay or reimburse claims against the Fund shall be expressly contingent upon availability of monies in the Fund. Neither the State nor any of its agencies shall have any obligation to pay or reimburse any costs for which monies are not available in the Fund. The provisions of this Part shall not constitute a contract, either express or implied, to pay or reimburse costs in excess of the monies available in the Fund. In making disbursements from the Fund, the Commission shall obligate monies to facilities or sites with higher priority before facilities or sites of lower priority, and facilities or sites with equal priority in the order in which the facilities or sites were prioritized until the revenue is exhausted. Consistent with the provisions of this Part, the Commission may disburse monies from the Fund to abate imminent hazards by dry-cleaning solvent contamination at abandoned dry-cleaning facility sites that have not been certified. Up to ~~forty percent (40%)~~ forty-five percent (45%) of the amount of revenue credited to the Fund in a year may be used to defray costs incurred by the Department and the Attorney General's Office in connection with

administration of the program described in this Part, including oversight of response activities."

Section 5.3. Effective July 1, 2003, G.S. 143-215.104C(c), as amended by Sections 5, 5.1, and 5.2 of this act, reads as rewritten:

"(c) Disbursements. -- A claim filed against the Fund may be paid only from monies in the Fund and only in accordance with the provisions of this Part. Any obligation to pay or reimburse claims against the Fund shall be expressly contingent upon availability of monies in the Fund. Neither the State nor any of its agencies shall have any obligation to pay or reimburse any costs for which monies are not available in the Fund. The provisions of this Part shall not constitute a contract, either express or implied, to pay or reimburse costs in excess of the monies available in the Fund. In making disbursements from the Fund, the Commission shall obligate monies to facilities or sites with higher priority before facilities or sites of lower priority, and facilities or sites with equal priority in the order in which the facilities or sites were prioritized until the revenue is exhausted. Consistent with the provisions of this Part, the Commission may disburse monies from the Fund to abate imminent hazards by dry-cleaning solvent contamination at abandoned dry-cleaning facility sites that have not been certified. Up to ~~forty-five percent (45%)~~ twenty percent (20%) of the amount of revenue credited to the Fund in a year may be used to defray costs incurred by the Department and the Attorney General's Office in connection with administration of the program described in this Part, including oversight of response activities."

Section 6. G.S. 143-215.104D(a) reads as rewritten:

"(a) Administrative Functions. -- The Commission may delegate any or all of the powers enumerated in this subsection to the ~~Department or engage a private contractor or contractors to carry out the activities enumerated in this subsection. If the Commission engages a private contractor to carry out the functions enumerated in subdivisions (1) through (6) of this subsection, no action of the contractor shall be effective until ratified by the Commission.~~ Department. The Commission shall:

(1) Accept petitions for certification and petitions to enter into dry-cleaning solvent assessment agreements or remediation agreements under this Part.

(2) Prioritize certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites for the initiation of assessment or remediation activities that are reimbursable from the Fund.

(3) Develop forms to be used by persons applying for reimbursement of assessment or remediation costs.

(4) Schedule funding of assessment and remediation activities.

(5) Determine whether assessment or remediation is necessary at a site at which dry-cleaning solvent contamination has occurred.

(5a) Enter into contracts with private contractors for assessment and remediation activities at certified dry-cleaning facilities, certified wholesale distribution facilities, and certified abandoned dry-cleaning facility sites.

(6) Determine that all necessary assessment and remediation has been completed at a contamination site.

(7) Make payments from the Fund to reimburse the costs of assessment and remediation. ~~Any payments made by a private contractor engaged by the Commission shall be authorized by the Commission prior to disbursement.~~"

Section 7. G.S. 143-215.104F, as amended by Sections 3 and 4 of this act, reads as rewritten:

"*§ 143-215.104F. (Repealed effective January 1, 2012) Requirements for certification, assessment agreements, and remediation agreements.*

(a) Any person petitioning for certification of a facility or abandoned site pursuant to G.S. 143-215.104G, for a dry-cleaning solvent assessment agreement pursuant to G.S. 143-215.104H, or for a dry-cleaning solvent remediation agreement pursuant to G.S. 143-215.104I, shall meet the requirements set out in this section and any other applicable requirements of this Part.

(b) Requirements for Potentially Responsible Persons Generally. -- Every petitioner shall provide the Commission with:

(1) ~~Information necessary for the Commission to determine the priority ranking of~~ Any information that the petitioner possesses relating to the contamination at the facility or abandoned site described in the petition.

(2) Information necessary to demonstrate the person's ability to incur the response costs specified in subsection (f) of this section.

(4) Information necessary to demonstrate that the petitioner, and any parent, subsidiary, or other affiliate of the petitioner, has substantially complied with:

a. The terms of any dry-cleaning solvent assessment agreement, dry-cleaning solvent remediation agreement, brownfields agreement, or other similar agreement to which the petitioner or any parent, subsidiary, or other affiliate of the petitioner has been a party.

b. The requirements applicable to any remediation in which the petitioner has previously engaged.

c. Federal and State laws, regulations, and rules for the protection of the environment.

(5) Evidence demonstrating that a release of dry-cleaning solvent has occurred at the facility or abandoned site and that the release has resulted in dry-cleaning solvent contamination.

(c) Requirement for Property Owners. -- In addition to the information required by subsection (b) of this section, a petitioner who is the owner of the property on which the dry-cleaning solvent contamination identified in the petition is located shall provide the Commission a written agreement authorizing the Commission or its

agent to have access to the property for purposes of conducting assessment or remediation activities or determining whether assessment or remediation activities are being conducted in compliance with this Part and any assessment agreement or remediation agreement.

(c1) Costs incurred by the petitioner for activities to obtain certification of a facility or abandoned site shall not be reimbursable from the Fund.

(d) The Commission shall reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner is an owner or operator of the facility described in the petition and the facility was not being operated in compliance with minimum management practices adopted by the Commission pursuant to G.S. 143-215.104D(b)(2) at the time the contamination was discovered.

(2) The petitioner is an owner or operator of the facility described in the petition and the petitioner owed delinquent taxes under Article 5D of Chapter 105 of the General Statutes at the time the dry-cleaning solvent contamination was discovered.

(e) The Commission may reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner fails to provide the information required by subsection (b) of this section.

(2) The petitioner falsified any information in its petition that was material to the determination of the priority ranking, the nature, scope and extent of contamination to be assessed or remediated, or the appropriate means to contain and remediate the contaminants.

(f) Financial Responsibility Requirements. -- Each potentially responsible person who petitions the Commission to ~~enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement~~ certify a facility or abandoned site shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners. The financial responsibility required shall be as follows:

(1) For dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, the first five thousand dollars ($5,000) of the costs of assessment or

remediation and one percent (1%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding one million dollars ($1,000,000).

(2) For dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, the first ten thousand dollars ($10,000) of the costs of assessment or remediation, two percent (2%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%) of the costs of assessment or remediation in excess of five hundred thousand dollars ($500,000) but not exceeding one million dollars ($1,000,000).

(3) For dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, the first fifteen thousand dollars ($15,000) of the costs of assessment or remediation, three percent (3%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%) of the costs of assessment or remediation in excess of five hundred thousand dollars ($500,000) but not exceeding one million dollars ($1,000,000).

(4) For wholesale distribution facilities and abandoned dry-cleaning facility sites, the first twenty-five thousands dollars ($25,000) of the costs of assessment or remediation, three percent (3%) of the costs of assessment or remediation in excess of two hundred thousand dollars ($200,000) but not exceeding five hundred thousand dollars ($500,000), and one percent (1%) of the costs of assessment or remediation in excess of five hundred thousand dollars ($500,000) but not exceeding one million dollars ($1,000,000)."

Section 8. G.S. 143-215.104G reads as rewritten:

"*§ 143-215.104G. (Effective January 1, 1999; repealed effective January 1, 2012) Certification of facilities and abandoned sites.*

(a) A potentially responsible party may petition the Commission to certify a facility or abandoned site where a release of dry-cleaning solvent ~~is believed to have~~ has occurred. The Commission shall certify the facility or abandoned site if the petitioner meets the applicable requirements of G.S. 143-215.104F. Upon its decision to certify a facility or abandoned site, the Commission shall inform the petitioner of its decision and of the initial priority ranking of the facility or site.

~~(b) The Commission may change the initial priority rankings of any facility or abandoned site as additional facilities or abandoned sites are certified if the Commission, in its sole discretion, determines that~~

~~additional facilities or sites pose a higher degree of harm or risk to public health and the environment. However, the Commission shall not change the priority ranking of a facility or an abandoned site that is set in a dry-cleaning solvent remediation agreement.~~

(c) A potentially responsible party who petitions for certification of a facility or abandoned site shall provide the Commission with either of the following:

(1) A ~~proposed dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement or an indication~~ written statement of the petitioner's intent to enter into an assessment agreement or remediation agreement.

(2) A written statement of the petitioner's intent to conduct assessment and remediation activities pursuant to subsection (d) of this section.

(d) A person who has access to property that is contaminated by dry-cleaning solvent and who has successfully petitioned for certification of the facility or abandoned site from which the contamination is believed to have resulted may undertake assessment or remediation of dry-cleaning solvent contamination located on the property consistent with the standards established by the Commission pursuant to G.S. 143-215.104D(b)(3) without first entering into a dry-cleaning solvent assessment agreement or a dry-cleaning solvent remediation agreement. No assessment or remediation activities undertaken pursuant to this subsection shall rely on standards that require the creation of land-use restrictions. A person who undertakes assessment or remediation activities pursuant to this subsection shall provide the Commission prior written notice of the activity. Costs associated with assessment or remediation activities undertaken pursuant to this subsection shall not be eligible for reimbursement from the Fund.

(e) The rejection of any petition filed pursuant to this section shall not affect the rights of any other petitioner, other than any parent, subsidiary, or other affiliate of the petitioner, under this Part. The rejection of a petition or the decertification of a facility or abandoned site may be the basis for rejection of a petition by any parent, subsidiary, or other affiliate of the petitioner for the facility or abandoned site."

Section 9. G.S. 143-215.104H reads as rewritten:

"*§ 143-215.104H. (Effective January 1, 1999; repealed effective January 1, 2012) Dry-Cleaning Solvent Assessment Agreements.*

(a) Assessment Agreements. -- One or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent assessment agreement regarding a facility or abandoned site that has been certified pursuant to G.S. 143-215.104G. The Commission may, in its discretion, enter into an assessment agreement with any potentially responsible party who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single assessment

agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into an assessment agreement pursuant to this section. ~~Petitioners shall~~ The Commission may require the petitioners to provide the Commission with any information necessary to ~~demonstrate that the:~~ demonstrate:

(1) ~~Priority~~ The priority ranking assigned to the facility or site is consistent with the rules adopted ~~by the Commission or the adjusted priority ranking that the petitioner agrees to accept is consistent with the rules adopted~~ by the Commission.

(2) ~~Projected~~ The projected schedule for funding of assessment ~~activities, including reimbursements from the Fund~~ activities is adequate.

(3) ~~Assessment~~ The assessment activities to be undertaken with respect to the dry-cleaning solvent contamination and any other contamination at the contamination site are adequate.

(4) ~~Person~~ The person who will be responsible for implementation of the activities is capable and qualified to conduct the assessment.

(4a) The amount of funds already expended by the petitioner for assessment or remediation of dry-cleaning solvent contamination at the facility or abandoned site.

(5) ~~Petitioner~~ The petitioner has and will continue to have available the financial resources necessary to pay the costs of assessment activities and the share of response costs imposed on the petitioner by G.S. 143-215.104F.

(6) ~~Permits~~ The permits or other authorizations required to conduct the assessment activities and to lawfully dispose of any hazardous substances or wastes generated by the assessment activities have been or can be obtained.

(7) ~~Assessment~~ The assessment activities will not increase the existing level of public exposure to health or environmental hazards at the contamination site.

(8) ~~Costs~~ The costs to be incurred in connection with the assessment activities contemplated by the assessment agreement are reasonable and necessary.

(9) ~~Petitioner~~ The petitioner has obtained the consent of other property owners to enter into their property for the purpose of conducting assessment activities specified in the assessment agreement.

(b) The terms and conditions of an assessment agreement regarding dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the reimbursement authorities and limitations set out in this Part. An assessment agreement shall, subject to the availability of monies from the Fund:

~~(1) Specify the date on which remediation will begin.~~

(1a) Require that the petitioner shall be liable to the Fund for an amount equal to the difference, if any, between the

applicable amount for which the petitioner is responsible under G.S. 143-215.104F and the amount reasonably paid by the petitioner for assessment or remediation activities of the type specified in G.S. 143-215.104N(a)(1) through (7) and that are otherwise consistent with the requirements of this Part.

(2) Provide for the prompt reimbursement of response costs incurred in assessment activities that are found by the Commission to be consistent with the assessment agreement and this Part.

(c) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement with any petitioner if:

(1) The petitioner will not accept financial responsibility for the share of the response costs required by G.S. 143-215.104F.

(2) The petitioner will not accept responsibility for conducting, supervising, or otherwise undertaking assessment activities required by the Commission.

(3) The petitioner fails to provide any information required by subsection (a) of this section.

(d) The refusal of the Commission to enter into a dry-cleaning solvent assessment agreement with any petitioner shall not affect the rights of any other petitioner under this Part, except that the refusal may be the basis for rejection of a petition by any parent, subsidiary or other affiliate of the petitioner for the facility or abandoned site.

(e) If the Commission determines from an assessment prepared pursuant to this Part that the degree of risk to public health or the environment resulting from dry-cleaning solvent contamination otherwise subject to assessment or remediation under this Part and Article 9 of Chapter 130A is acceptable in light of the criteria established pursuant to G.S. 143-215.104D(b)(3) and Article 9 of Chapter 130A, the Commission shall issue a written statement of its determination and notify the owner or operator of the facility or abandoned site responsible for the contamination that no cleanup, no further cleanup, or no further action is required in connection with the contamination.

(f) If the Commission determines that no remediation or further action is required in connection with dry-cleaning solvent contamination otherwise subject to assessment or remediation pursuant to this Part and Article 9 of Chapter 130A, the Commission shall not pay or reimburse any response costs otherwise payable or reimbursable under this Part from the Fund other than costs reasonable and necessary to conduct the risk assessment pursuant to this section and in compliance with a dry-cleaning solvent assessment agreement."

Section 10. G.S. 143-215.104I(a) reads as rewritten:

"(a) Upon the completion of assessment activities required by a dry-cleaning solvent assessment agreement, one or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent remediation agreement for any contamination

requiring remediation. The Commission may, in its discretion, enter into a remediation agreement with any petitioner who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single remediation agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into a remediation agreement pursuant to this section. The Commission may, in its discretion, enter into a remediation agreement that includes the assessment described in G.S. 143-215.104H. Petitioners shall provide the Commission with any information necessary to ~~demonstrate that:~~ demonstrate:

~~(1) The petitioner, and any parent, subsidiary, or other affiliate of the petitioner has substantially complied with:~~

~~a. The terms of any dry-cleaning solvent assessment agreement, dry-cleaning solvent remediation agreement, brownfields agreement, or other similar agreement to which the petitioner or any parent, subsidiary, or other affiliate of the petitioner has been a party.~~

~~b. The requirements applicable to any remediation in which the petitioner has previously engaged.~~

~~c. Federal and State laws, regulations, and rules for the protection of the environment.~~

(2) As a result of the remediation agreement, the contamination site will be suitable for the uses specified in the remediation agreement while fully protecting public health and the environment from dry-cleaning solvent contamination and any other contaminants included in the remediation agreement.

(3) There is a public benefit commensurate with the liability protection provided under this Part.

(4) The petitioner has or can obtain the financial, managerial, and technical means to fully implement the remediation agreement and assure the safe use of the contamination site.

(5) The petitioner has complied with or will comply with all applicable procedural requirements.

(6) The remediation agreement will not cause the Department to violate the terms and conditions under which the Department operates and administers remedial programs, including the programs established or operated pursuant to Article 9 of Chapter 130A of the General Statutes, by delegation or similar authorization from the United States or its departments or agencies, including the United States Environmental Protection Agency.

(7) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission or the ~~adjusted~~ priority ranking that the petitioner agrees to accept is consistent with the rules adopted by the Commission.

(8) The projected schedule for funding of remediation ~~activities, including reimbursements from the Fund.~~ activities.

(9) The petitioner will continue to have available the financial resources necessary to satisfy the share of response costs imposed on the petitioner by G.S. 143-215.104F.

(10) The expenditures eligible for reimbursement from the Fund and to be incurred in connection with the remediation agreement are reasonable and necessary.

(11) The consent of other property owners to enter into their property for purposes of conducting remediation activities specified in the remediation agreement."

Section 11. G.S. 143-215.104I(c)(6) reads as rewritten:

"(c) A dry-cleaning solvent remediation agreement shall contain a description of the contamination site that would be sufficient as a description of the property in an instrument of conveyance and, as applicable, a statement of:

. . .

(6) The ~~final~~ priority ranking of the facility or abandoned site."

Section 12. G.S. 143-215.104N(a) reads as rewritten:

"(a) Reimbursement. -- To the extent monies are available in the Fund for reimbursement of response costs, the Commission shall reimburse any ~~person~~ person, including a private contractor, responsible for implementing reasonable and necessary assessment and remediation activities at a contamination site associated with a certified facility or a certified abandoned site pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement for the following assessment and remediation response ~~costs:~~ costs, for which appropriate documentation is submitted:

(1) Costs of assessment with respect to dry-cleaning solvent contamination.

(2) Costs of treatment or replacement of potable water supplies affected by the contamination.

(3) Costs of remediation of affected soil, groundwater, surface waters, bedrock or other rock formations, or buildings.

(4) Monitoring of the contamination.

(5) Inspection and supervision of activities described in this subsection.

(6) Reasonable costs of restoring property as nearly as practicable to the conditions that existed prior to activities associated with assessment and remediation conducted pursuant to this Part.

(7) Other activities reasonably required to protect public health and the environment."

Section 13. G.S. 143-215.104I(g) reads as rewritten:

"(g) The terms and conditions of a dry-cleaning solvent remediation agreement concerned with dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the

reimbursement authorities and limitations set out in this Part. A remediation agreement shall provide, subject to availability of monies in the Fund, for prompt reimbursement of response costs incurred in assessment or remediation activities that are found by the Commission to be consistent with the remediation agreement and this Part. A remediation agreement may provide that the Commission conduct assessment and remediation activities at the facility or abandoned site."

Section 14.(a) G.S. 143-215.104N(b)(3) reads as rewritten:

"(3) ~~For costs before funds available through the financial responsibility demonstrated by the owner or operator of the facility or abandoned site pursuant to G.S. 143-215.104E and~~ For costs incurred in connection with dry-cleaning solvent contamination from a facility or abandoned site for which funds obligated by petitioners pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement in accordance with G.S. 143-214.104F(f) are ~~exhausted.~~ overdue."

Section 14.(b) G.S. 143-215.104N(c) reads as rewritten:

"(c) The Commission shall not pay or reimburse any response costs arising from a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement until the petitioners who are party to the agreement have ~~exhausted the financial resources made available under G.S. 143-215.104E and G.S. 143-215.104F.~~ paid all sums due under the agreement."

Section 15. G.S. 143-215.104O reads as rewritten:

"*§ 143-215.104O. (Repealed effective January 1, 2012) Remediation of uncertified sites.*

(a) In the event the owner or operator of a facility or the current owner of an abandoned site cannot be identified or located, unreasonably refuses to enter into either an assessment agreement or remediation agreement or cannot be made to comply with the provisions of an assessment agreement or remediation agreement between the petitioner and the Commission, the Commission may direct the Department or a private contractor engaged by the Commission to use staff, equipment, or materials under the control of the Department or contractor or provided by other cooperating federal, State, or local agencies to develop and implement a plan for abatement of an imminent hazard, or to provide interim alternative sources of drinking water to third parties affected by dry-cleaning solvent contamination resulting from a release at the facility or abandoned site. The cost of any of these actions shall be paid from the Fund. The Department or private contractor shall keep a record of all expenses incurred for personnel and for the use of equipment and materials and all other expenses of developing and implementing the remediation plan.

(b) The Commission shall request the Attorney General to commence a civil action to secure reimbursement of costs incurred under this ~~subsection.~~ section.

(c) In the event a civil action is commenced pursuant to this Part to recover monies paid from the Fund, the Commission may recover, in addition to any amount due, the costs of the action, including reasonable attorneys' fees and investigation expenses. Any monies received or recovered as reimbursement shall be paid into the Fund or other source from which the expenditures were made."

Section 16. G.S. 143-215.104S reads as rewritten:

"*§ 143-215.104S. (Repealed effective January 1, 2012) Appeals.*

Any person who is aggrieved by a decision of the Commission under G.S. 143-215.104E through G.S. 143-215.104O may commence a contested case by filing a petition under G.S. 150B-23 within 60 days after the Commission's decision. If no contested case is initiated within the allotted time period, the Commission's decision shall be final and not subject to review. The Commission shall make the final agency decision in contested cases initiated pursuant to this section. Notwithstanding the provisions of G.S. 6-19.1, no party seeking to compel remediation of dry-cleaning solvent contamination in excess of that required by a dry-cleaning solvent remediation agreement approved by the Commission shall be eligible to recover attorneys' fees. The Commission shall not delegate its authority to make a final agency decision pursuant to this section."

Section 17. Section 5 of S.L. 1997-392 reads as rewritten:

"Section 5. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Environmental Management Commission may adopt temporary rules to implement this act until ~~1 January 1999.~~ 30 June 2001."

Section 18. Section 7 of S.L. 1997-392 reads as rewritten:

"Section 7. (a) Any person who undertakes assessment or remediation of dry-cleaning solvent contamination pursuant to ~~an~~ a notice of violation or enforcement action by the Department of ~~Environment, Health,~~ Environment and Natural Resources during the period beginning 1 October 1997 and ~~1 January 1999~~ ending 30 June 2001 may, on or after ~~1 January 1999~~ 30 June 2001 seek reimbursement from the Dry-Cleaning Solvent Cleanup Fund for any costs exceeding fifty thousand dollars ($50,000). The Commission shall reimburse costs if it finds that the costs incurred were (i) appropriately documented and reasonably necessary to assess or remediate the dry-cleaning solvent contamination; (ii) for any of the activities described in subdivisions (1) through (7) of G.S. 143-215.104N(a); (iii) not subject to any of the limitations in subdivisions (4) ~~or (5)~~ through (9) of G.S. 143-215.104N(b); (iv) not reimbursable from pollution and remediation legal liability insurance; and (v) required by a notice of violation or a specific order of the Department of ~~Environment, Health,~~ Environment and Natural Resources issued on or after 30 June 1996. No reimbursement may be paid pursuant to this section for dry-cleaning solvent contamination that did not result from operations at a dry-cleaning or wholesale distribution facility.

(b) Any person who, as of ~~1 January 1999~~, 30 June 2001, is undertaking assessment or remediation of dry-cleaning solvent contamination shall be eligible to petition the Commission to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement with respect to the contamination. In calculating the required financial contribution of parties to any agreement, the Commission shall determine the reasonable cost of any necessary unreimbursed assessment or remediation activity undertaken by the parties with respect to the contamination site prior to ~~1 January 1999~~ 30 June 2001 and shall credit the amount toward any applicable financial responsibility limits established in G.S. 143-215.104F.

(c) Notwithstanding any other provision of this section, the total of all payments made pursuant to this section in a single fiscal year shall not exceed ten percent (10%) of the revenues credited to the Dry-Cleaning Solvent Cleanup Fund in the preceding fiscal year. The Commission may by rule establish a different cutoff date for assessment and remediation activities covered by this section."

Section 19. The Commission on Health Services shall adopt a rule that, notwithstanding any other rule, requires that a person who generates wastes at a dry-cleaning facility or wholesale distribution facility that contains the solvents perchloroethylene, F-1,1,3, or 1,1,1 trichloroethane to deliver the wastes to a facility that is legally authorized to manage or recycle hazardous wastes containing these solvents. The rule required by this section shall not apply to the disposal of wastewater generated from the dry-cleaning process, which shall be regulated as otherwise provided by law.

Section 20. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 21. The Secretary of Environment and Natural Resources shall study dry-cleaning processes and equipment that are potential alternatives to the predominant dry-cleaning processes and equipment currently utilized. The Secretary shall be assisted in this study by a balanced working group of stakeholders that includes representatives of nonprofit conservation organizations, representatives of the dry-cleaning industry, manufacturers of dry-cleaning processes and equipment, manufacturers of dry-cleaning solvents, and researchers knowledgeable about garment cleaning and the dry-cleaning industry.

The study shall identify alternative dry-cleaning processes and equipment currently in use or under development, identify the historical trends in the use of these processes and equipment, and evaluate the benefits and costs of, and the feasibility of implementing and installing, these processes and equipment. In evaluating the alternative processes and equipment, the Secretary shall consider, at a minimum, the following factors:

(1) The environmental and public health impacts of the processes and equipment;
(2) The ability of the processes and equipment to clean a wide variety of natural and synthetic fabrics without damage;
(3) The ability of small business organizations to finance, own, and operate the processes and equipment; and
(4) The effect of widespread use of the processes and equipment on fire safety.

If the Secretary finds that there are significant potential obstacles to the implementation of beneficial alternative dry-cleaning processes and equipment, the Secretary shall recommend to the General Assembly specific regulatory and nonregulatory policy measures to promote the increased use of such alternative processes and equipment by the State's dry-cleaning industry. The Secretary shall submit an interim report no later than November 1, 2000, and a final report no later than September 1, 2001, to the Environmental Review Commission. These reports shall include the Secretary's findings and recommendations, including any legislative proposals.

Section 22. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Environmental Management Commission and the Commission on Health Services may adopt temporary rules to implement the provisions of this act until 1 July 2001.

Section 23. Section 1.1 of this act becomes effective April 1, 2003, and expires June 30, 2010. Section 1.2 of this act becomes effective October 1, 2001, and expires January 1, 2010. Sections 3 and 4 of this act are effective on and after April 1, 1998. Section 5.1 of this act becomes effective July 1, 2001. Section 5.2 of this act becomes effective July 1, 2002. Section 5.3 of this act becomes effective July 1, 2003. All other sections of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 19th day of June, 2000.

Became law upon approval of the Governor at 1:53 p.m. on the 26th day of June, 2000.

H.B. 1573 **SESSION LAW 2000-20**

AN ACT TO CLARIFY THE PROPERTY TAX TREATMENT OF A HEALTH CARE FACILITY UNDERTAKEN BY THE MEDICAL CARE COMMISSION PURSUANT TO THE HEALTH CARE FACILITIES FINANCE ACT AND TO EXTEND THE SUNSET ON THE PROPERTY TAX EXEMPTION FOR CONTINUING CARE RETIREMENT CENTERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131A-21 reads as rewritten:
"*§ 131A-21. Tax exemption.*

The exercise of the powers granted by this Chapter will be in all respects for the benefit of the people of the State and will promote their health and ~~welfare, and no tax or assessment shall be levied upon any health care facilities undertaken by the Commission prior to the retirement or provision for the retirement of all bonds or notes issued and obligations incurred by the Commission in connection with such health care facilities.~~ welfare. If bonds or notes are issued by the Commission to provide or improve a health care facility, then until the bonds or notes are retired, the facility for which bonds or notes are issued is exempt from property taxes to the extent provided in this section. If refunding bonds or notes are issued to refund bonds or notes issued to provide or improve a health care facility, the facility will continue to be exempt from property taxes as provided in this section until such time as the refunding bonds or notes are retired, provided that the final maturity of the refunding bonds or notes does not extend beyond the final maturity of the original bonds or notes.

The property tax exemption under this section shall not exceed the lesser of the original principal amount of the bonds or notes or the assessed value for ad valorem tax purposes of the facility. If bonds or notes are issued to finance more than one health care facility, only that portion of the principal amount of the bonds or notes used to provide or improve the particular facility, including any allocable reserves and financing costs, may be considered for the purpose of determining the amount of the exemption allowable under this section. The exemption authorized by this section shall begin with the first full tax year of the taxpayer following the issuance of the bonds and notes. This section does not affect a health care facility's eligibility for a property tax exemption under Subchapter II of Chapter 105 of the General Statutes.

Any bonds or notes issued by the Commission under the provisions of this Chapter shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting ~~inheritance~~ inheritance, estate, or gift taxes, income taxes on the gain from the transfer of the bonds and notes, and franchise taxes. The interest on the bonds and notes is not subject to taxation as income."

Section 2. Subsection (e) of Section 29A.18 of Chapter 212 of the 1998 Session Laws reads as rewritten:

"(e) Subsection (a) of this section is effective for taxes imposed for taxable years beginning on or after July 1, 1998. Notwithstanding the provisions of G.S. 105-282.1(a), an application for the benefit provided in subsection (a) of this section for the 1998-99 tax year is timely if it is filed on or before November 15, 1998. ~~Subsection (a) of this section~~ G.S. 105-278.6A is repealed effective for taxes imposed for taxable years beginning on or after July 1, ~~2000.~~ 2001. The remainder of this section is effective when it becomes law."

Section 3. Section 1 of this act becomes effective October 1, 2000, and applies to bonds or notes issued on or after that date.

Section 2 of this act becomes effective July 1, 2000. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of June, 2000.

Became law upon approval of the Governor at 1:57 p.m. on the 26th day of June, 2000.

S.B. 1281 **SESSION LAW 2000-21**

AN ACT TO REPEAL THE PROVISIONS REGARDING SUPPLEMENTAL RETIREMENT FUNDS FOR FIREMEN IN THE CITY OF CHERRYVILLE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 608 of the 1971 Session Laws and Chapter 320 of the 1973 Session Laws are repealed.

Section 2. This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 27th day of June, 2000.

Became law on the date it was ratified.

S.B. 1461 **SESSION LAW 2000-22**

AN ACT TO AMEND THE LAW ESTABLISHING THE MOUNT AIRY FIREFIGHTERS' SUPPLEMENTARY PENSION FUND.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 302 of the 1967 Session Laws, as amended by Chapter 12 of the 1969 Session Laws, Chapter 121 of the 1973 Session Laws, and Chapter 165 of the 1995 Session Laws, reads as rewritten:

"Sec. 4. ~~Any member who has served 20 years as a firefighter in the City of Mount Airy Fire Department and has attained the age of 55 years, shall be entitled to receive retirement benefits from the Supplementary Pension Fund; this~~ Any member retiring from the City of Mount Airy Fire Department who has served 20 years as a firefighter in fire departments within the State of North Carolina and has attained the age of 55 years shall be entitled to receive retirement benefits from the Supplementary Pension Fund. For purposes of this provision, a member shall be deemed to be retiring if that member is retiring under the statewide Local Governmental Employees' Retirement System or is departing after having served 20 years as a firefighter in the City of Mount Airy Fire Department. Other terminations or departures from the City of Mount Airy Fire Department are not considered to be retirements and do not result in eligibility for benefits under this plan.

"Sec. 4A. The monthly pension shall be computed on the basis of a defined amount per month for each year of service in the

~~department.~~ City of Mount Airy Fire Department. Service in other fire departments within the State of North Carolina shall not be considered in computing the amount of the monthly pension. The Board of Trustees shall define the amount used as the basis for the monthly pension, and may adjust the amount when the board determines it appropriate, necessary, or imperative to keep or maintain the Supplementary Pension Fund on a good, solid financial basis, while providing a level of benefits consistent with funding. Any adjustments made are effective for firefighters not currently receiving a benefit as well as retired firefighters currently receiving a benefit."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of June, 2000.

Became law on the date it was ratified.

S.B. 1328 **SESSION LAW 2000-23**

AN ACT TO ENCOURAGE, SUPPORT, AND ACCELERATE THE PERMANENT PROTECTION OF FARMLAND, FORESTLAND, PARKLAND, GAMELAND, WETLANDS, OPEN SPACE, AND CONSERVATION LANDS IN NORTH CAROLINA, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, the citizens of North Carolina have committed themselves to conserve and protect their lands and waters in numerous ways. This commitment is stated in Article XIV, Section 5 of the North Carolina Constitution and finds expression in the many State, local, and private programs that provide for the acquisition and protection of lands to protect the water quality, wetlands, drinking water sources, natural beauty, and ecological diversity of North Carolina as well as provide opportunities for public recreation; and

Whereas, despite these many disparate programs, the General Assembly finds that the quality of life that North Carolinians have come to expect is threatened by the continued alteration and development of the State's natural areas, the loss of its farmlands and forests, the shrinking amount of open space in its urban areas, and the loss of cultural and historic sites. As the State's population continues to expand, loss of open spaces to development will continue to increase, damaging North Carolina's economy and environment; and

Whereas, the General Assembly further finds that additional permanent protection of lands for environmental protection and public use is needed to complement our State's economic growth and to meet our citizens' needs for generations to come; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The General Assembly reaffirms the strong desire of the State and its citizens to conserve and protect the lands needed to

provide a high-quality environment for present and future generations, while also preserving, to the maximum extent possible, the liberty of each individual to pursue their interests.

Section 2. Chapter 113A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 17.

"Conservation, Farmland, and Open Space Protection and Coordination.

"*§ 113A-240. Intent.*

(a) It is the intent of the General Assembly to continue to support and accelerate the State's programs of land conservation and protection, to find means to assure and increase funding for these programs, to support the long-term management of conservation lands acquired by the State, and to improve the coordination, efficiency, and implementation of the various State and local land protection programs operating in North Carolina.

(b) It is the further intent of the General Assembly that the State's lands should be protected in a manner that minimizes any adverse impacts on the ability of local governments to carry out their broad mandates.

"*§ 113A-241. State to Preserve One Million Acres.*

(a) The State of North Carolina shall encourage, facilitate, plan, coordinate, and support appropriate federal, State, local, and private land protection efforts so that an additional one million acres of farmland, open space, and conservation lands in the State are permanently protected by December 31, 2009. These lands shall be protected by acquisition in fee simple or by acquisition of perpetual conservation easements by public conservation organizations or by private entities that are organized to receive and administer lands for conservation purposes.

(b) The Secretary of Environment and Natural Resources shall lead the effort to add one million acres to the State's protected lands and shall plan and coordinate with other public and private organizations and entities that are receiving and administering lands for conservation purposes."

Section 3. The Secretary of Environment and Natural Resources shall report to the Governor and the Environmental Review Commission annually beginning on September 1, 2000, on the State's progress towards attaining the goal established in Section 2 of this act.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of June, 2000.

Became law upon approval of the Governor at 10:51 a.m. on the 28th day of June, 2000.

S.B. 1264 **SESSION LAW 2000-24**

AN ACT TO AUTHORIZE THE CITY OF MOUNT HOLLY TO ENTER INTO AN ANNEXATION AGREEMENT.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any applicable provisions of the General Statutes or any other public or local law, the City of Mount Holly is granted certain contract powers as follows:

(1) The City of Mount Holly may, by agreement with the property owner, provide that certain property described in the agreement as the "Riverbend Steam Station Property" and as the "Mountain Island Power House and Dam" (excluding such portion of the dam as may lie in Mecklenburg County) may be voluntarily annexed by the City as set forth in the agreement, and the agreement may provide that, notwithstanding G.S. 160A-31(d) the effective date of such annexation is June 30, 2014. The City of Mount Holly shall not seek the repeal of this act.

(2) Any agreement entered into as provided in subdivision (1) of this section is deemed by this act to be proprietary and commercial in nature and is specifically determined to be consistent with the public policy of the State of North Carolina.

(3) Any agreement entered into as provided in subdivision (1) of this section is a continuing agreement and is binding on and enforceable against the current and future members of the City Council of the City of Mount Holly during the full term of such agreement and any extension thereof.

(4) The parties to any agreement entered into as provided in subdivision (1) of this section may modify, amend, and extend such agreement on mutual written consent, without the approval of the General Assembly, provided that any such modification or amendment does not materially alter the concept of the agreement.

Section 2. The City of Mount Holly may accept, as consideration for such agreement, such monetary and nonmonetary consideration as may be set forth in said agreement.

Section 3. The agreement under Section 1 of this act allowing for the effective date of such annexation to be June 30, 2014, shall apply to the property as described as follows:

Tract One: Riverbend Steam Station Property. Commencing on NC grid station "45-EG-5", with NC values based on NAD 83 of North 179,784.43 (meters) and East 429,640.17 (meters), and runs thence North 82-13-49 East 1,017.26 feet to a #5 rebar found on the eastern margin of the right-of-way for NC Highway #16; thence North 62-21-20 East 88.42 feet to a #5 rebar found on the northern margin of the right-of-way for Horseshoe Bend Beach Road (S.R. 1912), thence with the northern margin of Horseshoe Bend Beach Road North 37-

04-00 East 77.42 feet to an iron pin; thence, continuing with the northern margin of said road, North 40-00-27 East 174.20 feet to a mag. nail, on the north margin of S.R. 1911, thence North 40-01-19 East 39.92 feet to the POINT OF BEGINNING OF THE FOLLOWING DESCRIBED TRACT OF LAND; and running thence with the center of Steam Station Road (S.R. 1911.), North 49-53-46 West 900.22 feet to a railroad spike; thence, leaving said road and running thence, North 26-18 West 900.5 feet to an iron pin; thence North 48-24 East passing through an iron pin at a distance of 1,062.2 feet and continuing for a total distance of 1,165.2 feet to an iron pin; thence North 16-38 East passing through an iron pipe at a distance of 538 feet and continuing for a total distance of 708 feet to a point in the Catawba River; thence South 82-22 East 827.1 feet to a point; thence North 38-52 East 1,362.6 feet to a point in the Catawba River; thence North 62-21 East 605.5 feet to a point in the Catawba River; thence North 42-38 East 896.8 feet to a point on the southern edge of the Catawba River; thence with the southern edge of Mountain Island Lake and the boundary of Duke Power Company's Riverbend Steam Station project at contour elevation 647.5 feet in a northeasterly and then a southeasterly direction as it meanders 6,200 feet more or less to an iron pin on the corner of Crescent Land and Timber Corp. (now or formerly); thence South 12-07 West 2,010.6 feet to a PK nail in the center of the right-of-way of Horseshoe Bend Beach Road (S. R. 1912); thence with the center of S. R. 1912 in a generally westerly direction the following bearings and distances: (1) North 67-12 West 100 feet; (2) North 70-35 West 180.4 feet; (3) North 71-53 West 217.8 feet; (4) North 74-40 West 100 feet; (5) North 81-40 West 100 feet; (6) North 86-20 West 109.5 feet; (7) North 87-08 West 364.4 feet; (8) North 87-37 West 820.5 feet; (9) South 86-57 west 201.4 feet; (10) South 79-42 West 322.8 feet to a point; thence leaving the center of said road and running thence around the edge of Henderson Cemetery the following bearings and distances: (1) North 5-00 West 221.2 feet; (2) North 5-01 West 117 feet; (3) South 86-00 West 150 feet to an iron pin; (4) South 5-00 East passing through an iron at 192.5 feet and continuing for a total distance of 343.4 feet to a point in the center of the right-of-way of S. R. 1912; thence with the center of S. R. 1912 the following bearings and distances: (1) North 88-22 West 231.8 feet to a point; (2) with the centerline of said S. R. 1912 as it meanders in a westerly direction 1,950 feet to PK nail found being the corner of StoneWater Bay Properties, LLC(Deed Book 2920 at Page 296); thence leaving the centerline of said road North 59-38-41 East 38-86 feet to an iron pin set; thence with the northern edge of the right-of-way for Horseshoe Bend Beach Road (S. R. 1912) the following courses and distances: (1) North 80-17-32 West 177.48 feet to an iron pin set; (2) North 80-32-11 West 50.39 feet to an iron pin; (3) North 82-02-01 West 51.13 feet to an iron pin set; (4) North 86-02-08 West 52.3 feet to an iron pin set; (5) South 87-07-14 West 53.62 feet; (6) South 77-28-52 West 54.29 feet; (7) South 67-06-31 West 54.46 feet; (8) South 57-02-33 West 53.66 feet; (9) South 50-

14-46 West 52.58 feet; (10) South 45-03-23 West 51.59 feet; (11) South 42-43-08 West 50.81 feet; (12) South 41-19-06 West 100.34 feet; (13) South 40-01-19 West 2,120.87 feet to the POINT OF BEGINNING. This description taken from a Duke Power Company plat of property entitled "Riverbend Steam Station" Gaston County, North Carolina, dated April 14, 1997, reference Mountain Island File No. 187. Further reference is made to the plat of StoneWater Bay Properties, LLC recorded in Plat Book 55 at Pages 51 and 52 of the Gaston County Registry and an unrecorded survey by CBS Surveying and Mapping dated April 26, 2000.

Tract Two: Mountain Island Power House and Dam (excluding such portion as may lie in Mecklenburg County)

That land upon which is located the Mountain Island Power House and the Mountain Island Dam Facility, excluding such portion of the same which may be located in Mecklenburg County further described as follows:

TO LOCATE THE POINT OF BEGINNING commence at NCGS Grid Coordinates N = 582154.3333 and E = 1409384.3310; said grid coordinates being also located on the easterly bank of the Catawba River in a southwest boundary of the property owned (now or formerly) by Crescent Resources, Inc. as described in Deed Book 1598 at Page 489 and Deed Book 3146 at Page 175 (Mecklenburg County Registry); thence crossing the River S. 71-19-34 W. 656.97 feet to a point on the westerly bank of the Catawba River at NCGS Grid Coordinates N = 581374.9684 and E = 1410492.3466; thence along the westerly bank of the Catawba River the following two (2) courses and distances: (1) N. 34-32-43 W. 476.50 feet to a point; and (2) N. 51-54-56 W. 533.39 feet to the POINT OR PLACE OF BEGINNING; thence from said point of Beginning N. 40-10-36 E. 356.33 feet to a point lying within the Catawba River in the Gaston-Mecklenburg County line; thence with the Gaston-Mecklenburg County line N. 61-29-02 W. 281.16 feet to a point in said County line; thence S. 65-19-02 W 1,577.62 feet to a point in the westerly boundary of Mountain Island Lake; thence S. 23-52-18 W. 360.47 feet to a concrete monument; thence S. 73-36-39 E. 547.44 feet to a point; thence N. 71-01-21 E. 534.95 feet to a concrete monument; thence N. 79-46-34 E. 284.00 feet to a concrete monument; thence N. 25-31-06 E. 441.61 feet to a concrete monument; thence N. 40-10-36 E. 148.88 feet to the POINT OR PLACE OF BEGINNING containing 22.77 acres, more or less, as shown on that map entitled "Duke Power Company Addition to Mountain Island Steam Station" prepared by the Duke Power Real Estate Department and dated January 9, 1991, last revised June 10, 1993, reference to which survey is hereby made.

Section 4. No portion of the Riverbend Steam Station Property as described in Section 3 of this act and no portion of the Mountain Island Power House and Dam described in Section 3 of this act shall be subject to involuntary annexation, or designation as an urban tax district or otherwise subjected to the power of a municipal taxing

authority by the City of Mount Holly or any other town or municipality or consolidated government, if provided under the terms of said agreement as referred to in Section 1 of this act.

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2000.

Became law on the date it was ratified.

S.B. 1334 **SESSION LAW 2000-25**

AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF TABOR CITY.

The General Assembly of North Carolina enacts:

Section 1. The following described property is added to the corporate limits of the Town of Tabor City:

Being those tracts or parcels of land located in South Williams Township, Columbus County, North Carolina, and being contained within the following more particular description:

Beginning at a point in the existing northern city limits line near the Southeast corner of Myrtle Green Cemetery and being within the right-of-way of SR 1367, said point being further located South 82 degrees 49 minutes 50 seconds West 961.91 feet from the Northeast corner of the existing city limits. Proceeds from said beginning point with the existing city limit line South 82 degrees 49 minutes 50 seconds West 4600.97 feet to a point on the northern right-of-way (allowing 80 feet for right-of-way) of SR 1377, thence with said right-of-way North 71 degrees 15 minutes 30 seconds East 477.67 feet, thence with a northern line of lands of the Town of Tabor City North 69 degrees 54 minutes 30 seconds East 130.40 feet, thence with the West line of said Town tract North 13 degrees 07 minutes 50 seconds West 401.49 feet, thence with another line of said Town tract North 45 degrees 36 minutes 20 seconds East 213.69 feet, thence with the western lines of Joshua Soles (see DB 179, P 73) and Howard Soles, et ux (see DB 221, P 184 and DB 211, P 453) North 13 degrees 39 minutes 00 seconds East 763.50 feet, thence continuing with line of said Howard Soles, et ux North 4 degrees 19 minutes 30 seconds East 84.00 feet, thence with the western line of Anniebell S. Beck and Wilson Beck (see DB 179, P 71 and DB 201, P 578) North 3 degrees 28 minutes 30 seconds East 511.83 feet, thence with a western line of Joshua Soles (see DB 179, P 73) North 2 degrees 58 minutes 10 seconds East 462.88 feet, thence with the northern line of said Soles and beyond South 78 degrees 07 minutes 40 seconds East 1336.92 feet to the centerline of CSX Railroad, thence to and with the northern line of tract of H. B. Buffkin, Jr. South 78 degrees 07 minutes 40 seconds East 389.40 feet, thence continuing with said Buffkin line South 85 degrees 22 minutes 30 seconds East 82.03 feet, thence with

the eastern line of said Buffkin tract South 3 degrees 47 minutes 00 seconds East 626.93 feet, thence with the northern lines of tract of Earl McDaniels, et al. (see DB 314, P 112) the following three (3) courses: North 81 degrees 21 minutes 00 seconds East 721.36 feet; North 3 degrees 25 minutes 20 seconds West 26.85 feet; North 84 degrees 25 minutes 50 seconds East 118.77 feet, thence with the northern line of Terry Lee Phipps (see DB 537, P 406) North 84 degrees 27 minutes 30 seconds East 439.50 feet to the centerline of SR 1300 thence with said centerline the following three (3) courses: South 17 degrees 51 minutes 30 seconds East 219.48 feet; South 16 degrees 39 minutes 50 seconds East 330.01 feet; South 8 degrees 48 minutes 50 seconds East 32.92 feet, thence to and with the northern boundary of Myrtle Green Cemetery tract North 81 degrees 06 minutes 20 seconds East 393.90 feet, thence with the eastern line of said cemetery South 4 degrees 23 minutes 20 seconds East 670.63 feet to the beginning and contains 143 acres, more or less.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2000.

Became law on the date it was ratified.

H.B. 1667 **SESSION LAW 2000-26**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Charlotte is revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF CHARLOTTE.

"CHAPTER 1.

"ORGANIZATION AND POWERS.

"Section 1.01. **Incorporation and Corporate Powers.** The City shall continue to be a body politic and corporate by the name of "City of Charlotte."

"Section 1.02. **Existing Corporate Boundaries.** The corporate boundaries of the City shall be those existing at the time of ratification of this Charter and as the same may be altered from time to time in accordance with applicable laws.

"CHAPTER 2.

"ELECTIONS.

"Section 2.01. **Regular Municipal Elections; Conduct.** Regular municipal elections shall be held in the City every two years in odd-numbered years, and shall be conducted in accordance with the Uniform Municipal Elections Laws of North Carolina. The Mayor and members of the Council shall be elected according to the partisan election method authorized for municipalities.

"Section 2.02. **Election of the Mayor.** The Mayor shall be elected to serve a term of two years. The Mayor shall be elected by the qualified voters of the City voting at large.

"Section 2.03. **Election of Council Members.** The Council shall consist of 11 members. The City shall be divided into seven single-member electoral districts; Council members shall be apportioned to the districts so that each member represents the same number of persons as nearly as possible, except for members apportioned to the City at large. The qualified voters of each district shall nominate and elect candidates who reside in the district for seats apportioned to that district, and all the qualified voters of the City shall nominate and elect candidates apportioned to the City at large. There shall be four at-large members of the City Council. All members of the Council shall serve a term of two years.

"CHAPTER 3.

"GOVERNING BODY.

"Section 3.01. **Compensation of Mayor and Council members.** The salary of the Mayor and each Council member shall be in such amounts as established by the Council from time to time.

"Section 3.02. **Meetings.** Notwithstanding the provisions of general law, only the Mayor, or in the absence of the Mayor, the Mayor Pro Tempore, or a majority of the members of the Council may call special or emergency meetings.

"Secs. 3.03--3.22. Reserved.

"Section 3.23. **Quorum; Procedure; Voting.** (a) Six members of the Council shall constitute a quorum. A member who has withdrawn from a meeting, whether excused or not excused, shall be counted as present for purposes of determining a quorum.

(b) Its meetings shall be public and the Mayor, who shall be the official head of the City, shall preside, if present, but shall have no vote except in case of a tie, or as provided herein. Six affirmative votes of the Council members, or five of such affirmative votes, together with the affirmative vote of the Mayor, in case of a tie vote, shall be required for the passage of any motion, resolution, or ordinance. Motions, resolutions, and ordinances granting special franchises and special privileges must be voted on and passed at not less than two regular meetings of the Council. Except as provided in this section, motions, resolutions, and ordinances will be deemed adopted if passed upon one reading. Except for Council appointments to committees, boards, and commissions; its employment of the City Manager, the City Attorney and the City Clerk; its internal affairs and matters which must be approved by the voters, the Mayor may veto any action adopted by the Council. The veto must be exercised at the meeting at which the action was taken. An action vetoed by the Mayor shall automatically be on the agenda at the next regular or special meeting of the Council, but shall not become effective unless it was readopted by the Council with at least seven members voting in the affirmative. In the absence of the Mayor, the Mayor Pro Tempore shall preside and, when so presiding, shall have the right to vote upon all

questions, but shall have no additional vote in case of a tie, and shall not have veto power; and in the absence of both, a chair Pro Tempore shall be chosen to preside at such meeting, and, when so presiding, he shall have the right to vote upon all questions, but shall have no additional vote in case of a tie. Provided further, however, the Mayor shall have a vote in the consideration of amendments to zoning ordinances when said amendments are the subject of a valid protest as defined by G.S. 160A-385. In voting on amendments to zoning ordinances, the Mayor shall be deemed a member of the legislative body as that term is used in G.S. 160A-385. Provided further, however, the Mayor shall have a vote in the consideration of the employment or dismissal of the City Manager, the City Attorney and the City Clerk.

"Section 3.24. **Powers and Duties of Mayor.** (a) The Mayor shall be ex officio member of all boards or commissions elected or appointed by the Council or the Mayor, and he shall serve upon the same in an advisory capacity only and shall not have a vote.

(b) In the absence or incapacity of the Mayor, all his duties, powers, and obligations shall be vested in the Mayor Pro Tempore.

"CHAPTER 4.

"ADMINISTRATION.

"ARTICLE I. IN GENERAL.

"Section 4.01. **Form of Government.** The City shall operate under the Council-Manager form of government.

"ARTICLE II. City Manager.

"Section 4.02. **Appointments by Council.** The Council shall appoint the City Manager, City Clerk, and City Attorney, each of whom shall hold office during the pleasure of the Council.

"Section 4.03. **Council-Manager Relationship.** The Council shall hold the City Manager responsible for the proper management of the affairs of the City, and the City Manager shall keep the Council informed of the conditions and needs of the City, and shall make such reports and recommendations as may be requested by the Council or as the City Manager may deem necessary. Neither the Mayor, the Council nor any member thereof shall direct the conduct or activities of any City employee, directly or indirectly, except through the City Manager.

"Section 4.04. **Acting City Manager.** The Council may from time to time designate a department head or other City employee as acting City Manager who shall have the authority, during any absence, illness, or other disability of the City Manager, or during any temporary vacancy in the office of the City Manager, to exercise the powers and duties of the City Manager, except as the Council may otherwise prescribe.

"Section 4.05. **Personnel Administration Standards.** The Council shall establish by appropriate ordinances a system of personnel administration, not inconsistent with the provisions for civil service hereinafter set forth, governing the appointment, promotion, transfer,

layoff, removal, discipline, and welfare of City employees. Such ordinances shall be based upon the following general standards:

(1) Employment shall be based on merit without regard to race, creed, color, sex, political affiliation, age, or physical defect or impairment of the applicant unless the defect or impairment prevents the applicant from performing, with reasonable accommodation, an essential function of the employment sought. "Physical defect" or "impairment" shall be defined to mean any physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness including epilepsy.

(2) Conditions of employment shall be maintained to promote efficiency and economy in the operation of the City government.

(3) Position classification and compensation plans shall be established and revised from time to time to meet changing conditions.

(4) Appointments and promotions shall be made solely on the basis of merit and fitness, demonstrated by examination or other evidence of competence.

(5) Tenure of employment shall be subject to satisfactory performance of work, personal conduct compatible with the trust inherent in public service, necessity for the performance of work, and availability of funds.

(6) Such ordinances shall also prescribe the details of personnel organizations and procedures.

The City Council may, in its discretion, delegate all or any part of the authority granted to it by G.S. 160A-162 to the City Manager.

"Section 4.06. **Optional Rights.** The City Manager may:

(1) Approve the:

a. Acquisition by the City of real property having a value of ten thousand dollars ($10,000) or less.

b. Acquisition or sale by the City of real property having a value of more than ten thousand dollars ($10,000), when the City Manager certifies to the Council that the property is being acquired or sold for the purpose of increasing the supply of affordable housing available to low- or moderate-income persons. The Manager shall, within 10 days of any transaction authorized by this subdivision, report the details to the Council.

(2) Approve certain contracts as provided in Section 8.86 of this Charter.

(3) Approve agreements permitting encroachments into setbacks and rights-of-way.

(4) Accept dedicated streets for City maintenance.

"Secs. 4.07--4.60. Reserved.

"ARTICLE III. CIVIL SERVICE.

"Section 4.61. **Civil service Board; Membership, Powers and Duties.** (a) Establishment. There is hereby continued a civil service

Board for the City of Charlotte, to consist of five members and two alternates; three members and one alternate to be appointed by the Council and two members and one alternate to be appointed by the Mayor. Each member shall serve for a term of three years. In case of a vacancy on the Board, the Council or the Mayor, as the case may be, shall fill such vacancy for the unexpired term of said member. For the purposes of establishing a quorum of the Board, any combination of Board members and alternates totaling three shall constitute a quorum. All Board members and alternates shall attend regular meetings for the purposes of meeting attendance policy and familiarity with Board business and procedures. Alternates shall attend hearings when needed due to scheduling conflicts of regular Board members and shall vote only when serving in the absence of a regular Board member. Attendance at meetings and continued service on the Board shall be governed by the attendance policies established by the Council. Vacancies resulting from a member's failure to attend the required number of meetings or hearings shall be filled as provided herein.

(b) Qualifications; Removal. The members of the Civil Service Board shall be registered voters of the City of Charlotte or County of Mecklenburg and shall take an oath to faithfully perform their duties. The members of said Board shall be subject to removal from office by a two-thirds vote of the Council, with or without cause.

(c) Examinations. The Board shall establish and fix requirements for applicants for employment in the fire and police departments. All applicants shall be subjected to examination by or at the direction of said Board. The examination shall be competitive and free to all persons meeting the requirements of the Board, subject to reasonable limitations as to residence, age, health, and moral character; provided that:

(1) Applicants for employment in the fire department shall be at least 18 years of age, and

(2) Applicants for employment in the police department shall be at least 20 years of age.

The Council may, by ordinance, at any time and from time to time, fix and establish such lesser maximum age limits for applicants as may be consistent with the needs of the respective departments. The examination for applicants shall be practical in character and shall be limited to matters which fairly test the relative ability of the applicant to discharge the duties of the position applied for and shall include tests of physical qualifications and health, but no applicant shall be examined concerning his political or religious opinions or affiliations.

(d) Notice. Notice of time and place of every examination shall be given by the Board for one week preceding such examination in a newspaper published in the City, and such notice shall be posted in a conspicuous place in the office of the Board, or its designee, for at least two weeks preceding such examination.

(e) Register. The Board shall prepare and keep a register of persons passing the examination, graded according to the respective showings

upon the examination, which register shall determine the appointments to be made in each of the departments under the eligibility rules and regulations established by the Board.

(f) Definitions. The terms "officer or employee" or "officer," as used in this Article, shall mean sworn officers with regard to the police department and shall mean uniformed personnel with regard to the fire department.

(g) Restrictions. No officer or employee of the fire and police departments shall take any part in any election or political function while in uniform or on duty other than that of exercising his right to vote. Any officer or employee found by the Board to have violated this provision may be dismissed from service by the Board, or the Board may adjudge other punishment.

(h) Relieving a Member From Duty. The chief of either the fire or police department, or the officer in charge in the absence of the chief, may relieve an officer or employee of the respective departments of all duties, and the chief, or the officer in charge in the absence of the chief, shall provide such officer or employee with a written complaint setting forth the department rules or regulations the officer or employee is charged with violating, along with a statement of the basic facts supporting the charge, and the chief, or the officer in charge in the absence of the chief, shall simultaneously cite such officer to the Board for an automatic hearing as set forth herein with a recommendation that such officer be dismissed from the department. Any officer so relieved of duty shall not receive any pay or be assigned any duties until the Board has acted upon the charges at the conclusion of its hearing. In the alternative, the chief, or the officer in charge in the absence of the chief, may cite such officer to the Board for an automatic hearing in accordance with the foregoing procedure, but without relieving the officer from duty.

(i) Dismissal or Suspension of Officer. The chief of either the fire or police department, or the officer in charge in the absence of the chief, may suspend without pay for a period not exceeding 30 days, any officer or employee of the respective departments. In suspending such officer, the chief, or the officer in charge in the absence of the chief, will provide such officer with a written complaint setting forth the department rules or regulations the officer is charged with violating, along with a statement of the basic facts supporting the charge. Any such officer so suspended may appeal to the Board by giving written notice of appeal to the Board with a copy to the chief of such officer's department. Such notice of appeal must be received by the Board within a period of 15 days from the date of the officer's suspension, whereupon a hearing before the Board on such appeal shall be conducted as provided in subparagraph (c). Any officer suspended without pay shall receive no pay for the period of suspension unless the officer is found by the Board not to have committed the offense, or unless the Board adjudges a different period of suspension without pay, in which case the officer shall receive no pay for such different period of suspension.

(j) Appeal Hearings. Upon receipt of a citation for termination from either chief or upon receipt of notice of appeal for a suspension from any civil service covered police officer or firefighter, the Board shall hold a hearing not less than 15 days nor more than 30 days from the date the notice of appeal, or the citation, is received by the Board, and shall promptly notify the officer of the hearing date. Termination hearings shall be held with a panel of five made up of any combination of available members or alternates, and suspension hearings shall be held with a panel of three made up of any combination of available members or alternates. In the event an officer desires a hearing at a date other than that set by the Board within the period set forth above, such officer may file a written request for a change of hearing date setting forth the reasons for such request, and the Chair of the Board is empowered to approve or disapprove such request; provided that such request must be received by the Board at least seven days prior to the date set for the hearing. For good cause, the Chair of the Board may set a hearing date other than within the period set forth above, or may continue the hearing from time to time. In the conduct of its hearing, each member of the Board shall have the power to subpoena witnesses, administer oaths, and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board may apply to the General Court of Justice, Superior Court Division, for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all parties. If any person, while under oath at a hearing of the Board, willfully swears falsely, such person shall be guilty of a Class 1 misdemeanor. Both the officer and the police or fire department shall have the right to present relevant evidence to the Board at its hearing. The officer must be furnished with a copy of the charges which have been brought against an officer and which will be heard by the Board. The officer shall be required to answer questions from members of the Board or the Board's counsel; however, the officer may refuse to answer any question where the answer might incriminate the officer with respect to any criminal violation of State or federal laws. The officer may be present at all evidentiary portions of the hearing, may retain counsel to represent the officer at the hearing, and may cross-examine those witnesses who testify against the officer. The officer will be given the right to an open or closed hearing as he may elect. After the evidentiary portion of the hearing is concluded, the Board will consider the evidence in closed session, and the Board will make findings of facts which will be provided to the officer together with a statement of the action taken by the Board on the basis of its findings of fact.

(k) General Powers of the Board. If, at the completion of its hearing, the Board shall find that:

(1) An officer has not committed the offense or offenses with which such officer has been charged, the Board may restore such officer to full duty with reimbursement of any pay lost

during the period the officer was suspended or relieved from duty.

(2) An officer has committed the offense or offenses with which such officer has been charged, the Board may issue an order:

a. Dismissing such officer;

b. Suspending such officer, without pay, for a period not exceeding 90 days; or

c. Imposing such other lesser punishment as it deems just and proper.

The Board may suspend its dismissal or suspension without pay and place such officer on probation for a period not to exceed one year upon such reasonable conditions as the Board may deem appropriate. The Board may order the department to furnish to the Board, during the period of probation, such information regarding the officer as the Board deems necessary.

(l) Appeal from Action of Board. Any officer may appeal from any order of the Board to the Superior Court of Mecklenburg County by giving notice of appeal, in writing, to the Superior Court within 10 days after the entry of the order. Assignments of error must be filed with the court and served upon the Board within 30 days after the entry of the order. The appeal to the Superior Court will be upon the record of the proceedings before the Board at its hearing.

(m) Incapability of performance. In those situations where the chief of the fire or police department determines that an officer of the respective department is permanently disabled, the chief may cite that officer to the Board with a statement of the facts relating to the inability of such officer to perform his duties, and the Board shall, upon receipt of any such citation, hold a hearing as provided for herein, and the Board may dismiss such officer if it finds that such officer can no longer perform his duty. Permanently disabled, as used in this paragraph, shall mean the continuing or enduring incapacity because of physical injury, sickness, or mental illness as determined by competent medical authority, to earn the wages which the officer was receiving at the time of the injury, sickness, or determination of mental illness in the same or any other related employment.

(n) Power of the Board to Require Investigation. The Board may require the chief of the fire or police department to investigate any incident or circumstance involving officers of such departments which shall come to the Board's attention; provided that a majority of the Board shall first determine that such an investigation is in the public's interest. The respective chief shall report the results of an investigation to the Board in writing within a time to be set by the Board.

(o) Annual Report. The Board shall make an annual report of its actions for the preceding year, and said annual report shall be kept in the files of the Board, and a copy delivered to the Council.

(p) Secretary. The City Clerk shall act as secretary to the Board and shall keep the minutes of its meetings and shall be custodian of all

papers and records pertaining to the business of said Board and shall perform such other duties as the Board may require.

(q) Accommodations. The Council shall provide suitable rooms for the Board and shall provide sufficient reasonable use of public buildings for meetings and hearings of said Board as may be necessary.

(r) Compensation. The members of said Board shall serve without compensation.

(s) City Finance. Nothing in this Article shall be so construed as to deprive the Council of its control of the finances of said City.

(t) Exceptions. The provisions of this Article pertaining to civil service coverage of officers and employees of the fire and police departments shall not apply to the chief of the fire department or the chief of the police department and shall not apply to an officer of the police or fire department until he or she has been an officer of the respective department for at least 12 months. During such 12-months' probationary period, he or she shall be subject to discharge by the chief of such department under rules promulgated with respect thereto, such rules to be approved by the Council.

(u) Promotions and Demotions. The chief of the police department and the chief of the fire department shall have authority to make all promotions of officers of their respective departments, subject to majority approval of the Civil Service Board. Promotions are probationary for six months from the date they become effective. Any demotions, except voluntary demotions, shall be made only after written charges are preferred and a hearing held before the Civil Service Board. Except as otherwise provided, demotions must be approved by a majority vote of the Board.

(v) Wartime Emergency. Notwithstanding any other provisions of this Article, during any wartime emergency and for six months thereafter, officers of the fire department and police department may be employed on a temporary basis, and such temporarily employed officers may be discharged by the City Manager without the preferment of charges.

(w) Auxiliary Officers. The Council may authorize the City Manager to appoint auxiliary officers of the fire and police departments without previous examinations by the Civil Service Board, who, subject to such rules and conditions as the chiefs of their respective departments shall prescribe, shall have all the powers and duties of regular members of the police and fire departments. Such auxiliary officers of the said departments shall be subject to discharge by the City Manager, with or without cause, and without a hearing before the Civil Service Board.

"CHAPTER 5.

"AUTHORITIES, BOARDS, AND COMMISSIONS.

"ARTICLE I. IN GENERAL.

"Section 5.01. **Powers of Mayor and Council.** (a) In addition to any authorities, Boards or commissions now, or hereafter created and established by or pursuant to general, local, or special law, or this

Charter, the Council may create and establish, by ordinance or resolution, such other authorities, boards, and commissions as it may deem necessary or appropriate to the administration, regulation, and operation of services, activities, and functions which the City is authorized by law to perform, regulate, and carry on. It is desirable that in appointing persons to boards, commissions, and authorities, the appointing authority should attempt to secure reasonable representation on each such body of all sexes, races, geographic sections of the City, and political parties. Provided, however, that such representation shall not be required, and the validity of any appointment may not be challenged on grounds that such representation has not been achieved.

(b) Any authority, board, commission, or other agency to which the Mayor or Council appoints members or appropriates money is hereby required to furnish to the Mayor and Council, upon request, such information as the Mayor and Council may deem relevant to the affairs of any such authority, board, commission, or other agency. The duty to provide such information is mandatory and may be enforced by an action for mandamus in the Superior Court of Mecklenburg County.

(c) The Mayor and Council may develop a plan and adopt such ordinances or resolutions as may be necessary to provide that the Mayor shall appoint one-third of the membership, and the Council shall appoint two-thirds of the membership of the following boards, commissions, and authorities:

(1) The Auditorium-Coliseum-Civic Center Authority;
(2) The Civil Service Board;
(3) The Housing Authority; and
(4) The Board of Adjustment.

"Secs. 5.02--5.20. Reserved.

"ARTICLE II. AUDITORIUM-COLISEUM-CONVENTION CENTER AUTHORITY.

"Section 5.21. **Continuation.** (a) The control, management, and operation of the property and improvements now or hereafter made or acquired by the City for auditorium, coliseum, civic center, and baseball stadium purposes shall continue to be vested in the authority to be known as the auditorium-coliseum-convention center authority. The authority shall continue to be composed of seven members, five members to be appointed by the Council and two members to be appointed by the Mayor. Each member shall serve a term of three years. No member shall serve more than two consecutive terms. In case any vacancy shall be created on said authority, the Council or the Mayor, as the case may be, shall appoint a member to fill the unexpired term. The members of the authority shall receive no compensation.

(b) Attendance of meetings and continued service on the authority shall be governed by the attendance policies established by the Council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided herein.

"Section 5.22. **Officers and Funds.** The members of the authority shall elect annually from their body a chair, vice-chair, and a secretary and otherwise provide for the efficient administration of its affairs; provided, however, the finance officer of the City shall by virtue of his office be also the finance officer of the authority, and he shall serve as such finance officer without additional compensation. All funds of the authority shall be kept by its treasurer in a separate bank account or accounts from other funds of the City and shall be paid out only in accordance with procedures established by such authority. The net proceeds from the operation of the authority shall be used to pay the interest and retirement on the bonded debt of the City incurred in connection with such auditorium-coliseum-convention center-baseball stadium and shall not be used for any other purpose until said bonds, principal, and interest have been paid, except as may be otherwise approved by the Council for other uses of the authority. Quarterly operating statements of the authority and an annual audited statement shall be presented to the Council. The authority shall be deemed a "special district," as defined in G.S. 159-7, for purposes of the Local Government Budget and Fiscal Control Act and shall budget and administer its fiscal affairs according to the provisions of that act applicable to special districts.

"Section 5.23. **Powers and Duties.** (a) The authority shall operate the auditorium-coliseum-convention center-baseball stadium in a proper, efficient, economical, and business-like manner, to the end that such properties and facilities may effectively serve the public needs for which they were established at the least cost and expense to the City. The authority shall appoint a Manager of such auditorium-coliseum-convention center-baseball stadium properties, whose salary shall be fixed by the authority. Such Manager shall, in addition to other duties imposed upon him by the authority, be responsible for the collection of rents or fees for the use of the properties and facilities of the authority. The authority shall select such other personnel as it deems advisable to properly operate such properties. The authority shall have full and complete control of such auditorium-coliseum-convention center-baseball stadium properties and facilities; shall have full and complete control over granting and denying the use of, and establishing and collecting rents and fees for the use of, the properties and facilities; shall make all reasonable rules and regulations as it deems necessary for the proper operation and maintenance of such properties and facilities; may expend funds of the authority for the advertising and promotion of the use of the properties and facilities; and may sponsor and promote shows, events, games and activities involving the use of the properties and facilities and make reasonable charges therefor.

(b) The authority may, in its discretion, lease or rent auditorium-coliseum-convention center-baseball stadium properties and facilities for such terms and upon such conditions as the authority may determine but not for longer than 10 years. Leases and rentals for terms of more than one year may be executed only after 10 days'

public notice by publication describing the property to be leased or rented, stating the annual lease or rental payments and announcing the authority's intent to authorize the lease or rental at its next meeting. No public notice or resolution of the authority is required with respect to leases and rentals for terms of one year or less.

"CHAPTER 6.

"REGULATORY AND PLANNING FUNCTIONS.

"ARTICLE I. IN GENERAL.

"Secs. 6.01--6.10. Reserved.

"ARTICLE II. TRAFFIC AND PARKING.

"Section 6.11. **Parking Regulations and Violations.** (a) The Council may provide by ordinance that each hour a vehicle remains illegally parked in an on-street parking space is a separate offense, and the violator may be given a ticket for each offense.

(b) The Council may provide by ordinance that any vehicle that has been towed for a parking violation is to be held until the towing fee and any related parking tickets and penalties are paid in full, or a bond is posted in the amount of the towing fee and any related parking tickets and penalties. Payment of the towing fee and any related parking tickets and penalties or posting of a bond shall not constitute a waiver of a person's right to contest the towing or any related parking tickets and penalties.

"Section 6.12. **Fire Safety Parking Regulations.** Notwithstanding the provisions of Chapter 20 of the General Statutes or any other public or local laws to the contrary, the Council may adopt ordinances that prohibit parking or standing of motor vehicles within 15 feet in either direction of a fire hydrant or entrance to a fire station or within any area designated as a fire lane. Any ordinances adopted pursuant to this act may be enforced by authorized municipal authorities, including the Charlotte Fire Department, whether or not the vehicle is parked on public or private property, in the same manner that is used to enforce other parking laws and ordinances.

"Section 6.13. **Speed Limits.** The director of transportation may establish speed limits, as required by G.S. 20-141, on streets within the City of Charlotte, on behalf of the local governing body, the Charlotte City Council.

"Secs. 6.14--6.60. Reserved.

"ARTICLE III. UNSAFE BUILDINGS.

"Section 6.61. **Power to Inspect and Condemn Unsafe and Dangerous Buildings.** The Council may provide by ordinance for the inspection, condemnation, and removal of unsafe and dangerous buildings. Such ordinance may provide for the entry in and upon all premises, buildings, and structures within the jurisdiction of the City, to inspect and discover whether the same are unsafe and dangerous to life or property on account of defects or dilapidation, and to cause all unsafe and dangerous conditions to be repaired or removed, and all filth and trash in and around the same to be removed. Such ordinance may also provide for the condemnation, as unsafe and dangerous to life or property, of any such building or structure and to prohibit

further use or occupancy thereof. If the owner of any such building or structure which has been so condemned, fails or refuses, after notice, hearing, and order, to repair or remove the unsafe and dangerous building or structure pursuant to such order, he shall be guilty of a Class 3 misdemeanor punishable as for a violation of any municipal ordinance. A copy of such notice and order shall be certified by the City Clerk and filed for recording in the office of the Clerk of Superior Court for Mecklenburg County in the Record of Lis Pendens and from the date or dates of recording of such notice and order, they shall be binding upon the successors and assigns of the owner. In addition, if the owner fails or refuses as aforesaid, or, if the owner cannot, after reasonable and diligent search and notice by publication, be located or found, then the City may enter upon such premises and remedy such unsafe and dangerous condition or demolish and remove such building or structure if necessary, and to charge the costs thereof against the owner of said premises, and the same shall be and remain a lien against the said premises until such costs are paid in full, and the lien herein provided shall have the same priority as the lien for unpaid taxes and may be collected in the same manner as taxes upon real property and the City, its agents, servants, employees, and contractors, shall not be liable in any manner, civilly or criminally, for carrying out the terms and provisions of this section or any ordinance adopted pursuant hereto. The term "costs", as used in this section, shall include interest at the rate of not less than six percent (6%) per annum until said lien is paid, nor more than twelve percent (12%) per annum until said lien is paid; the rate of interest to be determined by the Council on an annual fiscal year basis. Provided, that if the Council should fail to set a rate of interest in any fiscal year, the rate of interest in effect for the preceding fiscal year shall continue in effect.

"Secs. 6.62--6.80. Reserved.

"ARTICLE IV. FIRE PROTECTION.

"Section 6.81. **Power to Destroy Property.** The chief of the fire department or the officer in charge at the scene of a fire may order the blowing up, tearing down, or other destruction of any building, property, or structure when it is deemed necessary for the protection of life and property to stop the progress of a fire. No person shall be held liable, civilly or criminally, for acting in obedience to orders thus given, nor shall the chief or officer giving such order be held liable, civilly or criminally, for the giving of such order or for damages to property destroyed pursuant to order.

"Section 6.82. **Power of Arrest.** The fire chief and his assistants, while on duty during fires, shall have the powers conferred upon police officers of the City to make arrests, and may make arrests without warrants for interference with or obstruction to their operations.

"Secs. 6.83--6.100. Reserved.

"ARTICLE V. DRAINAGE AND SANITATION.

"Section 6.101. **Drainage of Premises.** The Council may require that all property owners provide adequate drainage facilities to the end that their premises be free from standing water and permit the natural flow of water thereon to be taken care of, and to provide that in case of failure on the part of such owner or owners to so provide the same, to go upon their premises and construct the necessary facilities and to charge the costs thereof against the premises so improved.

"Section 6.102. **Weeds and Overgrowth.** The Council may require the owner or owners of all premises, vacant or improved, to keep same free from trash, obnoxious weeds, or overgrowth as they may be ordered and to provide that in case of failure on the part of such owner or owners to comply with any such order, to go upon their premises and perform such work as may be necessary to comply with such order, and to charge the cost thereof against the premises upon which such work is performed.

"Section 6.103. **Costs a Lien as for Taxes.** The costs to the City of any work performed under this Article shall constitute a lien upon the premises upon which the work is performed. The lien provided for herein shall have the same priority as the lien for unpaid taxes and may be collected in the same manner as taxes upon real property. The term "costs", as used in this section, shall include interest at the rate of not less than six percent (6%) per annum until said lien is paid, nor more than twelve percent (12%) per annum until said lien is paid; the rate of interest to be determined by the Council on an annual fiscal year basis. Provided, that if the Council should fail to set a rate of interest in any fiscal year, the rate of interest in effect for the preceding fiscal year shall continue in effect.

"Secs. 6.104--6.120. Reserved.

"ARTICLE VI. UTILITIES REGULATION.

"Section 6.121. **Power to Regulate; Franchises.** The Council may regulate and supervise the operation of all public utilities and quasi-public utilities operating or doing business within the City to the end that all citizens of the City shall receive from said public utilities and quasi-public utilities, equal treatment, good service, and just and reasonable rates, and to grant or refuse franchises or privileges to such utilities and to regulate the erection and location of all poles in the City and to require that all wires, pipes, and conduits be placed underground and to regulate the same; provided that such regulations shall not be in contravention of the general laws of North Carolina applicable to such utilities, as the same are now or may hereafter be enacted.

"Secs. 6.122--6.150. Reserved.

"ARTICLE VII. FAIR HOUSING.

"Section 6.151. **Equal Housing.** (a) The Council may adopt ordinances prohibiting discrimination on the basis of race, color, sex, religion, handicap, familial status, or national origin in real estate transactions. Such ordinances may regulate or prohibit any act, practice, activity, or procedure related, directly or indirectly, to the sale or rental of public or private housing, which affects or may tend

to affect the availability or desirability of housing on an equal basis to all persons; may provide that violations constitute a criminal offense; may subject the offender to civil penalties; and may provide that the City may enforce the ordinances by application to the Superior Court Division of the General Court of Justice for appropriate legal and equitable remedies, including, but not limited to, mandatory and prohibitory injunctions and orders of abatement, attorneys' fees, and punitive damages, and the court shall have jurisdiction to grant such remedies.

(b) The Council also may amend any ordinance adopted pursuant to the provisions contained in subsection (a) of this section to ensure that such ordinance remains substantially equivalent to the federal Fair Housing Act (41 U.S.C.S. § 3601, et seq.). Any ordinance enacted pursuant to section 6.151(a) prohibiting discrimination on the basis of familial status shall not apply to housing for older persons as defined in the federal Fair Housing Act (41 U.S.C.S. § 3601, et seq.).

"Section 6.152. **Exemptions.** Any ordinance enacted pursuant to this Article may provide for exemption from its coverage:

(1) The rental of a housing accommodation in a building containing accommodations for not more than four families living independently of each other if the lessor or a member of his family resides in one of those accommodations.

(2) The rental of a room or rooms in a housing accommodation by an individual if he or a member of his family resides there.

(3) With respect to discrimination based on sex, the rental or leasing of housing accommodations in single-sex dormitory property.

(4) With respect to discrimination based on religion to housing accommodations owned and operated for other than a commercial purpose by a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, the sale, rental, or occupancy of such housing accommodation being limited or preference being given to persons of the same religion, unless membership in such religion is restricted because of race, color, national origin, or sex.

(5) Any person, otherwise subject to its provisions, who adopts and carries out a plan to eliminate present effects of past discriminatory practices or to assure equal opportunity in real estate transactions, if the plan is part of a conciliation agreement entered into by that person under the provisions of the ordinance.

"Section 6.153. **Enforcement.** The Council may create or designate a committee to assume the duty and responsibility of enforcing ordinances adopted pursuant to this article. Such committee may be granted any authority deemed necessary by the Council for the

proper enforcement of any fair housing ordinance, including, but not limited to, the power to:

(1) Promulgate rules for the receipt, initiation, investigation, and conciliation of complaints of violations of the ordinance.

(2) Require answers to interrogatories, the production of documents and things, and the entry upon land and premises in the possession of a party to a complaint alleging a violation of the ordinance; compel the attendance of witnesses at hearings, administer oaths, and examine witnesses under oath or affirmation.

(3) Apply to the Superior Court of the General Court of Justice, upon the failure of any person to respond to or comply with a lawful interrogatory, request for production of documents and things, request to enter upon land and premises, or subpoena, for an order requiring such person to respond or comply.

(4) Upon finding reasonable cause to believe that a violation of the ordinance has occurred, to petition the General Court of Justice for appropriate civil relief on behalf of the aggrieved person or persons.

"Section 6.154. **Complaints and Other Records.** The Council may provide that neither complaints filed with any committee pursuant to the ordinance nor the results of the committee's investigations, discovery, or attempts at conciliation, in whatever form prepared and preserved, shall be subject to inspection, examination, or copying under the provisions of what is now Chapter 132 of the General Statutes.

"Section 6.155. **Committee Meetings.** The Council may provide that the statutory provisions relating to meetings of governmental bodies, presently embodied in Article 33C of Chapter 143 of the General Statutes, shall not apply to the activity of any committee authorized to enforce the ordinance, to the extent that said committee is receiving a complaint or conducting an investigation, discovery, or conciliation pertaining to a complaint filed pursuant to the ordinance.

"Secs. 6.156--6.182. Reserved.

"ARTICLE VIII. ZONING REGULATION.

"Section 6.183. **Amendments to Zoning Ordinances.** As a part of, and not in limitation of, the powers granted by general laws to enact amendments to zoning ordinances, whenever the Council is petitioned to enact an amendment changing the zoning of a particular area, it shall have and may exercise the power to amend by changing the existing zoning classification of the area covered by the petition, or any part or parts thereof, to the classification requested or to a higher classification or classifications, without the necessity of withdrawal or modification of the petition; provided that notices of hearings on such amendments shall inform the public that such action may be taken. If the Council desires to exercise the power granted herein, it shall, for the purposes of this section, provide by ordinance for the classification of zoning districts from highest to lowest classification.

"Section 6.184. **Zoning Board of Adjustment.** (a) Members shall be appointed for a term of three years, and no member shall serve more than two full consecutive terms. The board of adjustment shall have and exercise all of the powers, duties, and functions enumerated in G.S. 160A-388; provided, however, that a majority vote of the members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official charged with enforcement of the zoning ordinance or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance or to effect any variation from the provisions of the ordinance.

(b) The board of adjustment shall have the power, upon an appeal filed with it by the owner of the property, to vary or modify the regulations of the zoning ordinance, as they apply to a particular piece of property, in accordance with G.S. 160A-388(d). Where such relief is granted, the board may impose reasonable and appropriate conditions and safeguards for the protection of the public interest and of neighboring properties.

"Secs. 6.185--6.201 Reserved.

"ARTICLE IX. SUBDIVISION REGULATION.

"Section 6.202. **Recording of Plats.** No one shall file or record in the Mecklenburg County Register of Deeds a plat of a subdivision of land located within the City's territorial jurisdiction without the approval of the Charlotte-Mecklenburg Planning Commission as required by this Article. The filing or recording of a plat of a subdivision without the approval of the Charlotte-Mecklenburg Planning Commission, as required by this Article, shall be null and void.

"Section 6.203. **Acceptance of and Improvements in Unapproved Streets.** The City shall not accept for maintenance, lay out, open, improve, grade, pave, or light any street or authorize the laying of water mains, sewer connections, or other facilities or utilities in any street within its territorial jurisdiction, (i) unless such street shall have been accepted or opened as, or shall have otherwise received the legal status of a public street prior to the said attachment of the City's subdivision jurisdiction, or (ii) unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Charlotte-Mecklenburg Planning Commission, or (iii) unless such street be accepted as a public street by the City Manager.

"Section 6.204. **Approval of Plats.** The City Council may enact an ordinance providing that no plat of a subdivision of land lying within the corporate limits of the City of Charlotte or within the perimeter area shall be filed or recorded until it shall have been submitted to and approved by the Charlotte-Mecklenburg Planning Commission in accordance with regulations adopted under authority of this Article and such approval entered in writing on the plat by the Secretary of the Commission.

"Section 6.205. **Change or Modification of Street Names.** The Charlotte Department of Transportation may hear and approve requests

to change or modify street names within the City of Charlotte. Any person dissatisfied with a decision of the Department may appeal to the City Council. In the event of an appeal, the City Council may affirm, modify, or overturn the decision of the department. The decision of the City Council on appeal shall be final.

"Secs. 6.206--6.220. Reserved.

"ARTICLE X. TREES.

"Section 6.221. **Removal, Replacement, and Preservation of Trees.** The Council may adopt ordinances, only after holding public hearings, to regulate the removal of trees from public and private property within the City in order to preserve, protect, and enhance one of the most valuable natural resources of the community and to protect the health, safety and welfare of its citizens.

"CHAPTER 7.

"CITY SERVICES AND FACILITIES.

"ARTICLE I. IN GENERAL.

"Secs. 7.01--7.20. Reserved.

"ARTICLE II. WATER AND SEWER.

"Section 7.21. **Remedies for Collection of Charges.** In addition to the remedies provided by general law for the collection of charges for water and sewerage services, both within and without the corporate limits, if any such charge is not paid within 10 days after it becomes due, the same shall become a lien upon the property served or in connection with which the service or facility is used and said shall have the same priority as the lien for unpaid taxes and may be collected in the same manner as taxes upon real property. The Council may also require the payment of reasonable deposits by owners or tenants as a condition precedent to the furnishing of water or sewerage services, or both. Such deposits may be retained by the City as assurance for the payment of charges and may be refunded, without interest, upon such terms and conditions as the Council may establish.

"Section 7.22. **Dedication of Water and Sewer Lines.** Should any person, firm, or corporation connect any privately owned water or sewer line or lines without first dedicating, giving, granting, and conveying same to the City, the act of connecting shall be deemed a dedication, gift, grant, and conveyance of such lines to the City, and the City may accept same or may order the disconnection of such lines.

"Secs. 7.23--7.40. Reserved.

"ARTICLE III. REFUSE DISPOSAL.

"Section 7.41. **Disposition of Disposal Sites.** The Council may in its discretion lease or sell, at private sale, any lands now or hereafter owned or acquired by the City, to any person, firm, or corporation contracting with the City for disposal of municipally collected refuse, for use as a plant site or sites, upon such terms and considerations as the Council may prescribe.

"Secs. 7.42--7.70. Reserved.

"ARTICLE IV. SPAY/NEUTER CLINIC AND DIFFERENTIAL LICENSE TAX.

"Section 7.71. **Spay/Neuter Clinic.** The City may establish, equip, operate and maintain a spay/neuter clinic for cats and dogs, employ personnel for this clinic and appropriate and expend tax and nontax funds, including property taxes, for those purposes. In lieu of the City itself operating the spay/neuter clinic, the City is further authorized to contract with any individual, corporation, nonprofit corporation, governmental body, or any other group for the purpose of operating a spay/neuter clinic, or for providing spay/neuter services for dogs and cats within the City. The City may appropriate and expend tax and nontax funds, including property taxes, for these purposes.

"Section 7.72. **Differential Licensing Tax.** The City may levy an annual differential license tax on the privilege of keeping a dog or cat within the City. The Council may levy a lower annual license tax for spayed or neutered dogs and cats than for nonspayed and nonneutered dogs and cats within the City.

"Secs. 7.73--7.80. Reserved.

"ARTICLE V. EMINENT DOMAIN.

"Section 7.81. **Powers and Procedures.** (a) Notwithstanding the provisions of G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property to be used for streets and highways, water supply and distribution systems, sewage collection and disposal systems, and airports, the City is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes, as now or hereafter amended; provided further, that whenever therein any reference is made to the State of North Carolina or any agency thereof, such reference shall be deemed to include the City, and whenever therein any reference is made to any official of the state of North Carolina, such reference shall be deemed to include the City Manager; provided further that nothing herein shall be construed to enlarge the power of the City to condemn property already devoted to public use.

(b) The City shall have the power of eminent domain to acquire property to provide housing for low- and moderate-income persons but only to acquire: (i) vacant structures Boarded up as a result of housing code violations; (ii) structures that have been found to contain housing code violations that the property owner has failed or refused to correct within a reasonable time; and (iii) vacant properties rendered vacant as a result of a housing code enforcement demolition order. Provided that in the exercise of its authority of eminent domain to acquire property to provide housing for low- and moderate-income persons, the City shall follow the procedures prescribed in Chapter 40A of the General Statutes. Vesting of title to the property taken under this subsection, and right to possession shall occur pursuant to the provisions of G.S. 40A-42(b). The City may not file an eminent domain action to acquire property described in clauses (i) or (ii) of this subsection until the property owner has had 150 days from the date of the order finding violations of the City housing code to correct the violations. The Council must adopt a plan to use condemned

property for low- or moderate-income housing prior to exercising the powers under this subsection.

"Secs 7.82--7.103. Reserved.

"ARTICLE VI. LOCAL IMPROVEMENTS.

"Section 7.104. **Alternative Procedures.** (a) Upon receipt of a petition from an owner or owners representing fifty percent (50%) or less of the total street frontage where fifty percent (50%) or more of the total street frontage is in one ownership, the Council may order the making of any local improvement and assess the cost against the abutting property in the same manner and following the same procedures as set forth in the general laws of North Carolina for the making of special assessments against property benefitted by local improvements.

(b) The Council may order the making of any local improvements and assess the cost thereof, except the City's portion, against only a limited number of abutting properties upon receipt of a petition from all such property owners asking that the improvement be made and that the total amount to be assessed for the improvement be assessed only against their properties.

(c) No petition shall be necessary for the making of any local improvements for which the City bears the entire cost without assessment.

(d) If, in the judgment of the Council, the abutting property to be assessed will be benefitted in an amount at least equal to the assessment, and such judgment shall be conclusive, no petition for local improvements shall be necessary and the Council may order the making of any local improvements and assess the cost thereof against abutting properties in the following cases:

(1) Street improvements and/or curb and gutter. When, in the judgment of the Council, any street or part of a street is unsafe; or, the improvement of a street or part of a street not more than three blocks in length is necessary to connect streets already paved; or, the improvement of a street or part of a street is necessary to connect a paved street, or portion thereof, with a paved highway; or, the improvement of a street or part of a street is necessary to provide a paved approach to a railroad or street grade separation or any bridge; or, any street or part of a street should be widened to accommodate present and anticipated volumes of traffic thereon.

(2) Water main improvements. When, in the judgment of the Council, any street or part of a street, or any property within the City, is without a public water supply and can be served, and water service should be provided in the public interest.

(3) Sanitary sewer improvements. When, in the judgment of the Council, any street or part of a street, or any property within the City, is without a public sanitary sewer system and can be served, and sanitary sewer service should be provided in the public interest.

(4) Storm sewer or other surface drainage improvements. When, in the judgment of the Council, any street or part of a street, or any property within the City, is without storm sewer or other surface drainage improvements, and can be served, and storm sewer or other surface drainage should be provided in the public interest.

(5) Sidewalk improvements. When, in the judgment of the Council, any street or part of a street is without sidewalks and sidewalks should be provided in the public interest.

(e) Whenever the Council finds that public interest requires a sidewalk or sidewalks or portion of driveways within the public right-of-way be repaired, the total cost of such repairs may be assessed against the property abutting the sidewalk or driveway repaired. Before an assessment may be made against abutting property for a sidewalk or driveway repair, at least 30 days' written notice must be given to the abutting property owner personally or by registered or certified mail to his last known address or as shown on the tax records, that he is required to make the designated repairs at his own cost and expense in conformity with the sidewalk standards adopted by the City, and if he shall fail to make such repairs within 30 days after notice served upon him, the City may thereupon make said repairs and assess the cost thereof. Provided, however, if the Council finds that any sidewalk or driveway is in need of immediate repair, the Council may adopt a resolution setting out such finding and directing that such repair be made immediately by the City and that the cost thereof be assessed against the property abutting without notice to the property owner affected.

"Section 7.105. **Planting Strip and Driveway Maintenance.** It shall be the responsibility of the abutting property owner to maintain any property or driveway between the property line and the curb of a paved street.

"Section 7.106. **Corner Lot Exemption.** The Council may determine the amount and applicability of assessment exemptions for corner lots. Provided, exemptions for corner lots shall apply to only one side of each such lot and the amount of the exemption shall not exceed seventy-five percent (75%) of the frontage of that side. If the corner formed by the two intersecting streets is rounded into a curve or is foreshortened for the purpose of providing sight distance or for any other purpose of construction, the frontage for assessment purposes shall be calculated to the midpoint of the curve or foreshortened corner.

"Section 7.107. **Exchange of Property.** In connection with street widening, the City may purchase with any available funds, property immediately adjacent to property located on a street corner; provided, in the opinion of the Council, the value of such inside lands does not exceed the value of the corner property needed for street-widening purposes, and may convey and transfer such inside lands to the owner of the corner property in exchange for property needed for street-widening purposes, at private sale.

"Section 7.108. **Water and Sewer Facilities; Additional Authority.** In the construction, reconstruction, or extension of the water and sewerage systems, or either of them in whole or in part, the City shall have, in addition to all other authority now or hereafter granted, the authority to specially assess the costs thereof in accordance with the procedures and authority prescribed for counties by Article 9 of Chapter 153A of the General Statutes, as the same may be amended from time to time.

"ARTICLE VII. UPTOWN DEVELOPMENT PROJECTS.

"Section 7.109. **Public-Private Development Projects.** (a) Definition. In this Article, public-private development projects means a capital project located: (i) in the City's central business district, as defined by the Council; (ii) in or along a major transportation corridor; or (iii) in a development zone designated pursuant to G.S. 105-129.3A; comprising one or more buildings or other improvements and including both public and private facilities. By way of illustration but not limitation, such a project might include a single building comprising a publicly owned parking structure and publicly owned convention center and a privately owned hotel or office building.

(b) Authorization. If the Council finds that it is likely to be of significant economic benefit to the area of the City in which the project is located, the City may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of a public-private development project or of specific facilities within such a project. The City may enter into binding contracts with one or more private developers with respect to acquiring, constructing, owning, or operating such a project. Such a contract shall among other provisions, specify the following:

(1) The property interest of both the City and the developer or developers in the project.
(2) The responsibilities of the City and the developer or developers for construction of the project.
(3) The responsibilities of the City and the developer or developers with respect to financing the project.
(4) The responsibilities of the City and the developer or developers with respect to the operation of the project.

Such a contract may be entered into before the acquisition of any real property necessary to the project.

(c) Property Acquisition. A public-private development project may be constructed on property acquired by the developer or developers or on property directly acquired by the City by any means.

(d) Property Disposition. In connection with a public-private development project, the City may lease or convey interests in property owned by it, including air rights over public facilities, by private negotiation or sale, and Article 12 of Chapter 160A of the General Statutes does not apply to such dispositions.

(e) Construction of the Project. The contract between the City and the developer or developers may provide that the developer or developers shall be responsible for construction of the entire public-

private development project. If so, the contract shall include such provisions as the City Council deems sufficient to assure that the public facility or facilities included in the project meet the needs of the City and are constructed at a reasonable price. A project constructed pursuant to this paragraph is not subject to Article 8 of Chapter 143 of the General Statutes as long as City funds constitute not more than fifty percent (50%) of the total costs of the project.

(f) Operation. The City may contract for the operation of any public facility or facilities included in a public-private development project by a person, partnership, firm, or corporation, public or private. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the City.

(g) Grant Funds. To assist in the financing of its share of a public-private development project, the City may apply for, accept, and expend grant funds from the federal or State governments.

"CHAPTER 8.

"MISCELLANEOUS.

"ARTICLE I. IN GENERAL.

"Secs. 8.01--8.20. Reserved.

"ARTICLE II. SALE OF PROPERTY.

"Section 8.21. **Personal Property.** The City may sell any and all personal property belonging to the City at private sale, and without resorting to public outcry and sale.

"Section 8.22. **Real Property.** (a) Whenever a disposition of an interest in real property is authorized by the City, the instrument conveying such interest may be executed by the Mayor or the Mayor's designee and attested by the City Clerk or Deputy City Clerk, with the corporate seal of the City attached. In the sale of real estate, the City may execute deeds in the usual form and containing full covenants of warranty.

(b) The City may convey interests in real property owned by it by private negotiation or sale, with respect to parcels of property having a fair market value of ten thousand dollars ($10,000) or less, and Article 12 of Chapter 160A of the General Statutes shall not apply to such dispositions. The City Manager may approve such dispositions.

(c) The City may, in addition to other authorized means, convey real property owned by it to persons of low- or moderate-income for residential purposes using the negotiated offer, advertisement, and upset bid process and requirements established by G.S. 160A-269, provided, however, the City may lower the bid deposit requirement to an amount not less than one percent (1%) of an offeror's bid.

(d) When the Council determines that a sale or disposition of property will advance or further any Council-adopted economic development, transportation, urban revitalization, community development, or land-use plan or policy, the City may, in addition to other authorized means, sell, exchange, or transfer the fee or any lesser interest in real property, either by public sale or by negotiated private sale. The City may attach to the transfer and to the interest

conveyed such covenants, conditions, or restrictions (or a combination of them) the City deems necessary to further such adopted policies or plans. The consideration received by the City, if any, for such conveyance, may reflect the restricted use of the property resulting from such covenants, conditions, or restrictions. An interest in property pursuant to this subsection may be conveyed only pursuant to resolution of the Council authorizing the conveyance. Notice of the proposed transaction shall be given at least 10 days prior to adoption of the resolution by publication in a newspaper of general circulation, generally describing:

(1) The property involved;
(2) The nature of the interest to be conveyed; and
(3) All of the material terms of the proposed transaction, including any covenants, conditions, or restrictions which may be applicable.

The notice shall give the time and place of the Council meeting where the proposed transaction will be considered and shall announce the Council's intention to authorize the proposed transaction. Notwithstanding the foregoing, the City may not sell the land or buildings located at 100 Paul Buck Boulevard by private sale.

"Secs. 8.23--8.80. Reserved.

"ARTICLE III. CONTRACTS AND PURCHASES.

"Section 8.81. **Bid Deposits.** The City may, in connection with bids on purchases and contracts to the City, accept as a bid deposit: cash; a cashier's check issued by or certified check drawn on a bank insured by the Federal Deposit Insurance Corporation; a United States money order payable to the City of Charlotte; or a bid bond issued by an insurance company authorized to engage in such business in North Carolina.

"Section 8.82. **Contract Specification Requirements.** The Council may establish minimum Minority and/or Women's Business Enterprise participation (M/WBE) requirements and in that event shall include such requirements in the specifications for City contracts. In addition, in construction and repair contracts under which subcontracts are customarily awarded by that primary contractor, the Council may establish specifications requiring bidders to subcontract a certain designated percentage of the construction and repair work amount; provided, that nothing in the specifications or requirements developed shall be construed to require that the award of subcontracts be made to subcontractors who do not submit the lowest responsible sub-bid and do not meet the bonding requirements otherwise required by law. Notwithstanding the provisions of G.S. 143-129 and G.S. 143-131, the Council may consider a bidder's compliance with specifications containing M/WBE or subcontracting requirements in its award of contracts, and may, in its discretion, refuse to award a contract to a bidder if it determines that the bidder has failed to make a good faith effort to comply with said requirements.

"Section 8.83. **Public Contracts.** G.S. 143-129 as it applies to the City is amended to provide that the City Manager or his designee may

waive the requirement for a bid bond or deposit for the purchase of apparatus, supplies, material, or equipment where the successful bidder does not have any past experience of nonperformance with the City. The Council may consider a bid for the purchase of apparatus, supplies, materials, or equipment and award a contract on such bid notwithstanding the fact that the proposal is not accompanied by a bid deposit with the City.

"Section 8.84. **Exemption from Certain Purchasing Requirements.** (a) Because of the:

(1) Highly complex and innovative nature of telecommunications, data processing, and data communications equipment, supplies and services; and

(2) Desirability of a single point of responsibility for the development of contracts for products and services which include in their scope, combinations of design, installation, operation, management, and service and maintenance responsibilities over prolonged periods of time.

In some instances it may be beneficial to the City to award a contract on the basis of factors other than cost alone, including, but not limited to, (i) system design, (ii) operation experience, (iii) system reliability, (iv) long-term operational costs, (v) compatibility with existing equipment, and (vi) emerging technology. Therefore, notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, or any other general, special, or local law, a contract entered into between the City and any person selected as a responsible proposer pursuant to this section may be awarded, negotiated, and entered into in accordance with the following provisions for the award of a contract based upon an evaluation of proposals submitted in response to a request for proposal prepared by or for the City.

(b) This section establishes special procedures for the purchase and lease of telecommunications, data processing and data communications equipment, supplies and services, and applies only to those purchases and leases.

(c) The City shall give notice that it is requesting proposal as follows:

(1) By mailing notice of request for proposals a minimum of 10 days prior to the time specified for opening of said proposal to suppliers represented on the City's current relevant bid list; and

(2) By advertisement at least one week before the time specified for the opening of said proposals in a newspaper having general circulation in the City. The advertisement shall state the time and place where the request for proposals may be had, and the time and place for opening of said proposals, and shall reserve to the City the right to reject any or all such proposals.

All proposals shall be opened in public. Proposal shall be sealed if the invitation to propose so specifies.

(d) The City shall require in its request for proposals that each proposal to be submitted:

(1) Shall include:
   a. Information relating to the experience of the proposer on the basis of which said proposer purports to be qualified to carry out all work required by a proposed contract;
   b. The ability of the proposer to secure adequate financing;
   c. Proposals for project staffing, implementation of work tasks, and the carrying out of all responsibilities required by a proposed contract;

(2) Language clearly identifying and specifying all elements of cost which would become charges to the City, in whichever form, in return for the fulfillment by the proposer of all tasks and responsibilities established by the request for the proposal for the full lifetime of a proposed contract, including, as appropriate, but not limited to, (i) the cost of purchase or lease of equipment, (ii) the cost of design, installation, operation, management, and maintenance of any system, and (iii) the cost of any services performed by proposer; and

(3) Shall include such other information as the City may determine to have a material bearing on its ability to evaluate any proposal in accordance with this section.

The City may prescribe the form and content of such proposal and, in any event, the proposer must submit sufficiently detailed information to permit a fair and equitable evaluation of such proposal. The City may evaluate such proposals based on one or more of the factors set forth above as the City determines to be appropriate.

(e) The City may make a contract award to any responsible proposer selected pursuant to this section based on a determination that the selected proposal is more responsive to the request for proposals and may thereupon negotiate a contract with said proposer for the purchase and/or lease of equipment and performance of the services set forth in the request for proposals and the response thereto. Such determination is conclusive.

"Section 8.85. **Construction, Design, and Operation of Sludge Management Facilities.** (a) Unless a different meaning is required by the context, the following definitions shall apply throughout this section:

(1) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, institutional, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, or any other waste having similar characteristics and effects.

(2) "Sludge management" means purposeful, systematic control of the generation, storage, collection, transport, treatment, processing, recovery, and disposal of sludge.

(3) "Sludge management facility" means land, personnel, and equipment used in sludge management.

(4) "Storage" means the containment of sludge in a manner which does not constitute disposal.

(5) "City" means the City of Charlotte.

(b) To acknowledge the highly complex and innovative nature of sludge management technology for processing sludge, the relatively limited availability of existing and proven proprietary technology involving sludge management facilities, the desirability of a single point of responsibility for the development of facilities, and the economic and technical utility of contracts for sludge management which include in their scope combinations of design, construction, operation, management, and maintenance responsibilities over prolonged periods of time and that in some instances it may be beneficial to the City to award a contract on the basis of factors other than cost alone, including, but not limited to, facility design, operational experience, system reliability, long-term operational costs, compatibility with sludge production facilities, environmental impact, and operation guarantees, this section establishes special procedures for the construction, design, and operation of sludge management facilities. Accordingly, and notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, or any general, special, or local law, a contract entered into between the City and any person pursuant to this section may be awarded in accordance with the following provisions for the award of a contract based upon an evaluation of proposals submitted in response to a request for proposals prepared by or for the City.

The City shall give notice that it is requesting proposals as follows: Proposals shall be invited by advertisement at least one week before the time specified for the opening of said proposals in a newspaper having general circulation in the City. The advertisement shall state the time and place where the request for proposals may be had, and the time and place for opening of the proposals, and shall reserve to the City the right to reject any or all such proposals. All proposals shall be opened in public. Proposals shall be sealed if the invitation to propose so specifies. Nothing in this paragraph limits the City from publicizing the request for proposals by other means or from directly soliciting proposals.

(c) The City shall require in its request for proposals that each proposal to be submitted shall include:

(1) Information relating to the experience of the proposer on the basis of which said proposer purports to be qualified to carry out all work required by a proposed contract; the ability of the proposer to secure adequate financing; and proposals for project staffing, implementation of work tasks, and the carrying out of all responsibilities required by a proposed contract;

(2) A proposal clearly identifying and specifying all elements of cost which would become charges to the City, in whatever form, in return for the fulfillment by the proposer of all tasks and responsibilities established by the request for the

proposal for the full lifetime of a proposed contract, including, as appropriate, but not limited to, the cost of planning, design, construction, operation, management, and/or maintenance of any facility; provided, that the City may prescribe the form and content of such proposal and that, in any event, the proposer must submit sufficiently detailed information to permit a fair and equitable evaluation of such proposal; and

(3) Such other information as the City may determine to have a material bearing on its ability to evaluate any proposal in accordance with this section.

(d) Proposals received in response to such request for proposals may be evaluated on the basis of a technical analysis of facility design, operational experience of the technology to be utilized in the proposed facility, system reliability and availability, efficiency, environmental impact and protection, required staffing level during operation, projection of anticipated revenues from the materials produced by the facility, net cost to the City for operation and maintenance of the facility for the duration of time to be established in the request for proposals, and upon such other factors and information as the City determined to have a material bearing on its ability to evaluate any proposal, which factors were set forth in said request for proposal.

(e) The City may make a contract award to any responsible proposer selected pursuant to this section based upon a determination that the selected proposal is more responsive to the request for proposals and may thereupon negotiate a contract with said proposer for the performance of the services set forth in the request for proposals and the response thereto. Such determination shall be deemed to be conclusive. Notwithstanding other provisions of Article 8 of Chapter 143 of the General Statutes, or any other general, local, or special law, a contract may be negotiated and entered into between a City and any person selected as a responsible proposer hereunder which may provide for, but not be limited to, the following:

(1) A contract, lease, rental, license, permit, or other authorization to design, construct, operate, and maintain such a sludge management facility, upon such terms and conditions for such consideration and for such term or duration, not to exceed 40 years, as may be agreed upon by the City and such person;

(2) Payment by the City of a fee or other charge to such person for acceptance, processing, management, and disposal of sludge;

(3) An obligation on the part of the City to deliver or cause to be delivered to a sludge management facility, guaranteed quantities of sludge; and

(4) The sale, utilization, or disposal of any form of material or residue resulting from the operation of any sludge management facility.

(f) The construction work for any facility or structure which is ancillary to the sludge management facility and which does not involve storage and processing of sludge or the recovery of useful or marketable forms of materials from sludge at the sludge management facility, shall be procured through competitive bidding procedures as described in Article 8 of Chapter 143 of the General Statutes. Such ancillary facilities shall include, but shall not necessarily be limited to, the following: roads, water and sewer lines to the facility limits, transfer stations, scale house, administration buildings, and residue and bypass disposal sites.

"Sec. 8.86. **Award and Approval of Certain Contracts.** The City Manager or the City Manager's duly authorized designee may award, approve, and execute contracts or agreements of any kind or nature on behalf of the City when the amount of such contract or agreement does not exceed fifty thousand dollars ($50,000); provided that the City Council shall have approved a sufficient appropriation in the annual budget for the current fiscal year for the general purpose specified in the contract or agreement. In addition, the City Manager or the City Manager's duly authorized designee may approve or execute amendments to contracts or agreements, including contracts initially approved by the City Council, when the amount in question does not exceed fifty thousand dollars ($50,000). Furthermore, the City Manager or the City Manager's duly authorized designee may award, approve, and execute contracts for the construction and installation of water and sewer lines that will eventually become a part of the City utility system, regardless of the amount, where the construction and installation is the sole responsibility and is at the sole expense of another person, firm, or corporation.

"Secs. 8.87--8.100. Reserved.

"ARTICLE IV. CONFLICT OF INTEREST.

"Section 8.101. **Penalty.** It shall be unlawful for the Mayor or any member of the Council, or other officer or employee of the City, directly or indirectly, to become an independent contractor for work done by the City, or to become directly or indirectly financially interested in, or receive profits from, any purchase by the City. Any such person or persons violating this provision shall be guilty of a Class 1 misdemeanor.

"Secs. 8.102--8.120. Reserved.

"ARTICLE V. JOINT PERFORMANCE OF FUNCTIONS, ACTIVITIES, AND SERVICES.

"Section 8.121. **Purpose and Power.** For the purpose of enabling the more efficient and/or economical administration and performance of functions, activities, and services, the City of Charlotte and the County of Mecklenburg may, whenever it is deemed in the best interests of their citizens, enter into written agreements for the joint performance of any and all functions, activities, and services which each is now or hereafter authorized to undertake, perform, and carry on. Such joint performance may be carried on through consolidation of existing agencies or departments or through the creation and

establishment of new agencies or departments and may include institutions or buildings now existing or hereafter constructed, owned, and operated, either singly or jointly.

"Section 8.122. **Provisions of Agreements.** Such written agreements shall set forth: the functions, activities, and services to be thus jointly carried on; the manner of administration thereof; the manner in which the expenses thereof shall be apportioned; and the manner in which any fees or revenues derived therefrom shall be apportioned. Such agreements may specify the term thereof and they may be terminated by either party thereto upon one-year's written notice to the other party of intention to terminate, and such agreements may be amended from time to time upon the mutual consent of the City and the County. Upon the ratification of such agreements by the governing bodies of the City and the County, they shall be spread upon their respective minutes.

"Section 8.123. **Effect of Agreements.** Whenever any such agreement has been ratified, then the consolidated agency, department, or institution designated or created to carry on such joint performance, shall be vested with all the powers, rights, duties, functions, and jurisdiction pertaining to the function, activity, or service to be jointly performed, theretofore existing or thereafter granted by law and vested in the City, the County, or both, and in the agencies, departments, or institutions so consolidated or created.

"Section 8.124. **Agreements With Other Governmental Agencies.** The City may enter into similar written agreements as provided hereinabove, with any other governmental agency having similar authority.

"Secs. 8.125--8.130. Reserved.

"ARTICLE VI. LEASE OF PROPERTY.

"Section 8.131. **Generally.** Notwithstanding the provisions of G.S. 160A-272, the Council may, in its discretion, lease City-owned property for such terms and upon such conditions as the Council may determine, including terms of more than 10 years without the necessity of following any procedures other than those required by G.S. 160A-272 for leases of 10 years or less."

Section 2. The purpose of this act is to revise the Charter of the City of Charlotte and to consolidate certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Section 4.(a) The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

YEAR	CHAPTER
1965	711
1965	713, Sections 1 and 2 only
1967	216
1967	290
1967	730
1967	740
1967	840
1969	65
1969	133
1969	333
1969	384
1969	916
1971	48
1971	49
1971	92
1971	97
1971	140
1971	414
1971	903, Section 1 only
1973	309
1973	332
1973	432
1973	481
1973	841
1973	901
1973	968
1973	980
1973	1045
1973	1046
1975	58
1975	85
1975	115
1975	424
1977	140
1977	141
1977	1161
1979	390
1979	391
1979	446
1981	55
1981	61
1981	363
1981	365
1981	366
1981	441
1981	1135
1981	1136
1981	1137

1981	1138
1981	1140
1981	1167
1983	71, as to the City of Charlotte only
1983	92
1983	437
1983	954
1983	956
1983	1008
1985	343
1985	345
1985	346
1985	347
1985	370, except for Sections 7, 8, and 9
1985	388
1987	191
1987	344
1987	1026
1989	31
1989	149
1989	170
1989	184
1989	185
1989	220
1993	60
1993	171
1993	196
1993	229, except for Section 2
1993	708
1995	23
1995	170
1995	623

S.L. 1997-45
S.L. 1997-107
S.L. 1997-127
S.L. 1997-264
S.L. 1997-305, Sections 1 and 2 only
S.L. 1999-88
S.L. 1999-99
S.L. 1999-456, Section 46 only.

Section 4.(b) Notwithstanding any other provision of this act, the following act (including any amendment thereto) is not repealed and the provisions of that act remain effective as to the City of Charlotte as if this act had not been enacted:

YEAR	CHAPTER
1993	417.

Section 4.(c) This act does not repeal by implication any local acts otherwise applicable to the City of Charlotte.

Section 5. The Mayor and Council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified.

Section 6. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Section 7. All existing ordinances, resolutions, and other provisions of the City of Charlotte not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Section 8. No action or proceeding pending on the effective date of this act by or against the City or any of its departments or agencies shall be abated or otherwise affected by this act.

Section 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is superseded or recodified.

Section 10. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2000.

Became law on the date it was ratified.

S.B. 1190 **SESSION LAW 2000-27**

AN ACT TO ANNEX A TRACT TO THE TOWN OF CAROLINA BEACH AND TO ALLOW STREET ASSESSMENTS WITHOUT PETITION IN THAT TRACT.

The General Assembly of North Carolina enacts:

Section 1(a). The corporate limits of the Town of Carolina Beach are extended to include the following described tract:

(Wilmington Beach Tract), New Hanover County, North Carolina. Beginning at an existing concrete monument in the dividing line between Carolina Beach and the now or formerly Wilmington Beach in the Sunny Point Military Ocean Terminal buffer zone line that has North Carolina grid coordinates North = 101,445.376, East = 2,331,597.568 (Nad 83) and is located North 73 degrees 15 minutes 23 seconds East -2062.38' from North Carolina geodetic survey monument "OCEAN" with North Carolina grid coordinates: North = 100,851.163, East = 2,329,622.414 (Nad 83). Said point of beginning also being the southwestern corner of Carolina Sands Subdivision as shown on maps of Section 1 and 2 recorded in Map Book 21 at Page 13 and 14 of the New Hanover County Registry. Running thence from said point of beginning with the dividing line between Carolina Beach and Wilmington Beach North 88 degrees 41 minutes 50 seconds East - 3299.99' to a point in the Mean Low Water Line of the Atlantic Ocean, passing through an in line iron pipe in the western right-of-way line of U.S. Highway # 421 at 2709.25';

thence with the Mean Low Water Line of the Atlantic Ocean in a southwesterly direction: South 19 degrees 01 minute 16 seconds West - 161.89' to a point; thence South 19 degrees 01 minute 16 seconds West -91.53' to a point; thence South 17 degrees 36 minutes 16 seconds West - 92.21' to a point; thence South 17 degrees 45 minutes 13 seconds West - 96.39' to a point; thence South 14 degrees 05 minutes 31 seconds West - 97.01' to a point; thence South 14 degrees 49 minutes 57 seconds West - 101.62' to a point; thence South 16 degrees 38 minutes 08 seconds West - 98.92' to a point; thence South 16 degrees 35 minutes 34 seconds West - 109.39' to a point; thence South 25 degrees 49 minutes 49 seconds West - 147.40' to a point; thence South 22 degrees 21 minutes 12 seconds West - 122.67' to a point; thence South 20 degrees 23 minutes 23 seconds West - 108.24' to a point; thence South 05 degrees 46 minutes 19 seconds West - 121.96' to a point; thence South 15 degrees 43 minutes 53 seconds West - 105.93' to a point; thence South 26 degrees 51 minutes 12 seconds West - 103.57' to a point; thence South 23 degrees 48 minutes 36 seconds West - 100.62' to a point; thence South 18 degrees 50 minutes 03 seconds West - 122.54' to a point; thence South 13 degrees 34 minutes 46 seconds West - 146.97' to a point; thence South 13 degrees 11 minutes 10 seconds West - 116.93' to a point; thence South 18 degrees 48 minutes 21 seconds West - 103.63' to a point; thence South 22 degrees 54 minutes 50 seconds West - 104.48' to a point; thence South 26 degrees 25 minutes 09 seconds West - 118.65' to a point; thence South 18 degrees 20 minutes 08 seconds West - 112.91' to a point; thence South 16 degrees 27 minutes 21 seconds West - 101.96' to a point; thence South 17 degrees 28 minutes 00 seconds West - 115.58' to a point; thence South 19 degrees 31 minutes 54 seconds West - 104.35' to a point; thence South 17 degrees 25 minutes 10 seconds West - 164.56' to a point; thence South 24 degrees 51 minutes 53 seconds West - 109.82' to a point; thence South 16 degrees 44 minutes 26 seconds West - 102.33' to a point; thence South 17 degrees 12 minutes 36 seconds West - 117.52' to a point; thence South 17 degrees 30 minutes 33 seconds West - 109.06' to a point; thence South 18 degrees 12 minutes 59 seconds West - 121.04' to a point; thence South 20 degrees 04 minutes 38 seconds West - 165.24' to a point; thence South 15 degrees 02 minutes 49 seconds West - 118.37' to a point; thence South 07 degrees 55 minutes 59 seconds West - 108.95' to a point; thence South 12 degrees 59 minutes 24 seconds West - 29.12' to a point; thence leaving the Mean Low Water Line of the Atlantic Ocean and running North 73 degrees 33 minutes 05 seconds West - 2485.74', with the center line of Alabama Avenue, (being the Kure Beach or Carolina Beach City Limit line) to an iron rod in the Sunny Point Military Ocean Terminal buffer zone line; thence with the Sunny Point Military Ocean Terminal buffer zone line, North 16 degrees 26 minutes 17 seconds East - 594.66' to a point; thence North 73 degrees 33 minutes 43 seconds West - 90.00' to an existing concrete monument; thence North 16 degrees 26 minutes 17 seconds

East - 150.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 10.00' to an existing concrete monument; thence North 16 degrees 26 minutes 17 seconds East - 350.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 50.00' to an iron rod; thence North 16 degrees 26 minutes 17 seconds East - 300.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 140.00' to an iron rod; thence North 16 degrees 26 minutes 17 seconds East - 840.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 90.00' to an iron rod; thence North 16 degrees 26 minutes 17 seconds East - 100.00' to an existing concrete monument; thence North 73 degree 33 minutes 43 seconds West - 10.00' to an existing concrete monument; thence North 16 degrees 26 minutes 17 seconds East - 100.00' to an existing concrete monument; thence North 28 degrees 33 minutes 43 seconds West - 70.71' to an existing concrete monument; thence North 16 degrees 26 minutes 17 seconds East - 200.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 100.00' to an iron rod; thence North 16 degrees 23 minutes 53 seconds East - 248.59' to the point of beginning and containing 220.590 acres more or less.

Section 1(b). The provisions of G.S. 160A-217 do not apply to the Town of Carolina Beach as to special assessments for street improvements in the area annexed by this section. This subsection does not affect the applicability to the Town of Carolina Beach of other provisions of Article 10 of Chapter 160A of the General Statutes.

Section 2. This act becomes effective June 30, 2000.

In the General Assembly read three times and ratified this the 29th day of June, 2000.

Became law on the date it was ratified.

H.B. 1504 **SESSION LAW 2000-28**

AN ACT TO AMEND THE CHARTER OF THE TOWN OF VALDESE TO INCREASE THE MAYOR'S TERM OF OFFICE FROM TWO TO FOUR YEARS.

The General Assembly of North Carolina enacts:

Section 1. Section 2.3 of the Charter of the Town of Valdese, being Chapter 847 of the 1977 Session Laws, reads as rewritten:

"Sec. 2.3. Mayor; term of office; duties. The mayor shall be elected in the manner provided by Article III of this charter to serve for a term of ~~two~~ four years, or until his successor is elected and qualified. The mayor shall be the official head of the town government and shall preside at all meetings of the council. He shall have the right to vote only when there is an equal number of votes in the affirmative and the negative on any motion before the council. The mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General

Statutes of North Carolina, by this charter, and by the ordinances of the town."

Section 2. Section 3.4 of the Charter of the Town of Valdese, being Chapter 847 of the 1977 Session Laws, reads as rewritten:

"Sec. 3.4. Election of the mayor. At the regular municipal election in ~~1977,~~ 2001, and ~~biennially~~ quadrennially thereafter, there shall be elected a mayor to serve a term of ~~two~~ four years. The mayor shall be elected by the voters of the town voting at large."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2000.

Became law on the date it was ratified.

H.B. 1507 **SESSION LAW 2000-29**

AN ACT TO REPEAL THE PROHIBITION ON LEG-GRIPPING TRAPS IN DUPLIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1266 of the 1973 Session Laws is repealed.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2000.

Became law on the date it was ratified.

H.B. 1536 **SESSION LAW 2000-30**

AN ACT TO PROVIDE STAGGERED TERMS FOR THE SYLVA TOWN COUNCIL AND TO PROVIDE FOR NONPARTISAN ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of the Charter of the Town of Sylva, being Chapter 72 of the Private Laws of 1899, as amended by Chapter 27 of the 1957 Session Laws and Chapter 31 of the 1961 Session Laws, is rewritten to read:

"Section 5(a). Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted by the Jackson County Board of Elections. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

Section 5(b). In 2001 and quadrennially thereafter, a mayor shall be elected for a four-year term. In 2001, five council members shall be elected. The two persons receiving the highest numbers of votes are elected to a four-year term, and the three persons receiving the next highest numbers of votes are elected to two-year terms. In 2003 and quadrennially thereafter, three council members are elected to

four-year terms. In 2005 and quadrennially thereafter, two council members are elected to four-year terms."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2000.

Became law on the date it was ratified.

H.B. 1546 **SESSION LAW 2000-31**

AN ACT TO PROVIDE THAT ALEXANDER, ANSON, AND SCOTLAND COUNTIES MAY PURCHASE AND CONVEY PROPERTY TO THE STATE OF NORTH CAROLINA FOR USE AS CORRECTIONAL FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 600 of the 1995 Session Laws reads as rewritten:

"Section 1. The ~~County~~ Counties of Alexander, Anson, Scotland, and Stanly ~~has~~ have power under general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as ~~a~~ correctional ~~facility.~~ facilities."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2000.

Became law on the date it was ratified.

H.B. 1587 **SESSION LAW 2000-32**

AN ACT TO ANNEX A DESCRIBED AREA TO THE CORPORATE LIMITS OF THE TOWN OF SEAGROVE AND PROVIDE THAT IT SHALL NOT BE CONSIDERED IN CALCULATING THE MAXIMUM AMOUNT OF SATELLITE ANNEXATIONS ALLOWED FOR THAT TOWN.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Seagrove are extended to include so much of the following described area that is not already in the corporate limits:

BEGINNING at a point in the centerline of Seagrove Plank Road (NCSR 2846), said point being located North 22° 19' 01" East 47.40 feet from the intersection of Bennett Farm Road (NCSR 2848) with Seagrove Plank Road (NCSR 2846); thence from said beginning point along the centerline of Seagrove Plank Road as it curves to the left a chord course and distance of North 18° 56' 48" East 294.05 feet and a radius of 2,774.250 feet to a point; thence continuing along the centerline of Seagrove Plank Road North 16° 38' 16" East 236.40 feet to a point, the southwest corner of Gary Callicutt; thence along the southern line of Gary Callicutt South 73° 06' 24" East 404.71 feet, crossing an existing iron pipe at 30.84 feet to an existing iron

pipe, the southeast corner of Gary Callicutt; thence along the eastern line of Gary Callicutt North 16° 56' 32" East 164.77 feet to an existing iron pipe in the southern line of Lonnie Blackmon; thence along the southern line of Lonnie Blackmon the following courses and distances: South 72° 58' 13" East 94.81 feet to an existing iron rod and South 84° 11' 03" East 292.94 feet to an existing iron rod, the southeast corner of Blackmon and the southwest corner of Annie Jorgensen; thence along the southern line of Jorgensen the following courses and distances: South 84° 09' 45" East 1,197.14 feet to an existing angle iron; thence along the eastern line of Jorgensen North 24° 10' 18" East 647.02 feet to an existing iron pipe in the southern line of Cicero Bennett and in a branch; thence along the branch the following courses and distances: South 14° 24' 52" East 29.22 feet, South 88° 51' 24" East 80.18, South 47° 37' 27" East 73.37, South 26° 56' 34" East 50.15, South 70° 29' 42" East 108.61 feet, North 81° 22' 43" East 40.12 feet, South 88° 40' 25" East 64.64 feet, South 74° 13' 02" East 76.80 feet, South 74° 55' 08" East 94.22 feet and South 87° 20' 12" East 88.76 feet to a point in Fork Creek; thence along Fork Creek the following courses and distances: South 33° 17' 42" West 28.98 feet, South 64° 11' 20" West 56.21 feet, South 25° 54' 45" West 130.07 feet, South 14° 43' 37" West 50.58 feet, South 37° 07' 39" West, 152.04 feet, South 17° 19' 01" West 96.18 feet, South 07° 57' 19" East 93.04 feet, South 29° 50' 54" West 57.63 feet, South 88° 37' 18" West 55.27 feet, South 05° 39' 19" West 68.01 feet, South 86° 17' 47" West 43.63 feet, South 48° 33' 01" West 70.01 feet, South 04° 06' 23" East 29.26 feet, South 53° 41' 07" West 30.35 feet, South 08° 52' 52" West 65.70 feet, South 14° 09' 18" East 41.67 feet, South 52° 52' 26" West 38.74 feet, South 31° 45' 35" East 24.64 feet, South 01° 10' 31" West 28.91 feet and South 35° 31' 10" West 6.22 feet to a point in the line of James Graves; thence along the line of James Graves line the following courses and distances: North 87° 59' 58" West 303.80 feet, crossing an existing 36" poplar, to a new iron pipe, South 36° 03' 49" West 387.19 feet to a new iron pipe at stone in fence line and North 82° 23' 58" West 874.21 feet to an existing stone, the northeast corner of Paul Payne (Book 947, Page 22); thence along the northern line of Paul Payne North 82° 24' 57" West 379.97 feet to an existing stone and North 82° 45' 43" West 232.77 feet to an existing stone in the eastern line of Zeb Lindsay; thence along the eastern line of Lindsay North 06° 10' 57" East 206.39 feet to an existing stone; thence along the northern line of Zeb Lindsay in part and the northern line of Paul Payne (Book 879, Page 37) in part North 83° 22' 37" West 606.83 feet, crossing an existing angle iron at 576.09 feet, to the BEGINNING containing 49.178 acres, more or less, all according to a survey for H. Clay Presnell Estate by Steven D. Brown, RLS dated May 14, 1994 designated as Job No. 94024.

Section 2. In calculating the maximum area allowed for satellite corporate limits under G.S. 160A-58.1(b)(5), the entire territory described in Section 1 of this act is excluded.

Section 3. This act becomes effective June 30, 2000.

In the General Assembly read three times and ratified this the 29th day of June, 2000.

Became law on the date it was ratified.

H.B. 1606 **SESSION LAW 2000-33**

AN ACT AUTHORIZING THE CITY OF HIGH POINT TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE CITY'S OVERGROWN VEGETATION ORDINANCE.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 1999-58 reads as rewritten:

"Section 2. This act applies to the ~~City~~ Cities of High Point and Roanoke Rapids only."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2000.

Became law on the date it was ratified.

H.B. 1675 **SESSION LAW 2000-34**

AN ACT AMENDING THE CHARTER OF THE TOWN OF MAYODAN TO ELIMINATE THE REQUIREMENT THAT THE TOWN MANAGER MUST RESIDE WITHIN TOWN LIMITS.

The General Assembly of North Carolina enacts:

Section 1. Section 5.1 of the Charter of the Town of Mayodan, being Chapter 501 of the 1973 Session Laws, as amended, reads as rewritten:

"Sec. 5.1. Appointment; Compensation. The Town Council shall appoint an officer whose title shall be Town Manager and who shall be the head of the administrative branch of the Town government. The Town Manager shall be chosen by the Council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. At the time of his appointment he need not be a resident of the Town, but shall reside ~~therein~~ within five miles of the Town limits during his tenure of office. No person elected as Mayor or as a member of the Council shall be eligible for appointment as Town Manager until one year shall have elapsed following the expiration of the term for which he was elected. The Town Manager shall serve at the pleasure of the Council and shall receive such salary as the Council shall fix."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2000.

Became law on the date it was ratified.

H.B. 1579 **SESSION LAW 2000-35**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF MONROE.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Monroe is revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF MONROE.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The City of Monroe in Union County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'City of Monroe,' hereinafter at times referred to as the 'City.'

"Section 1.2. **Powers.** The City shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the City of Monroe specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with law. An official map of the City, showing the current municipal boundaries, shall be maintained permanently in the office of the City Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Union County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **City Governing Body; Composition.** The City Council, hereinafter referred to as the 'Council,' and the Mayor shall be the governing body of the City.

"Section 2.2. **City Council; Composition; Terms of Office.** The Council shall be composed of six members, to be elected by all the qualified voters of the City, for staggered terms of four years or until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the City for a term of two years or until a successor is elected and qualified. The Mayor shall be the official head of the City government and preside at meetings of the Council; shall have the right to cast one vote, and one vote only, upon any question or matter before the Council; and shall exercise the powers and duties conferred by law or as directed by the Council.

"Section 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with

general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Council.

"Section 2.5. **Meetings.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Council and all votes shall be taken in accordance with the applicable provisions of general law, including, but not limited to, G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation, Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Council members shall be in accordance with general law. Vacancies that occur in any elective office of the City shall be filled by majority vote of the remaining members of the governing body and shall be filled for the remainder of the unexpired term, notwithstanding the contrary provisions of G.S. 160A-63.

"ARTICLE III. ELECTION.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan election and runoff method as provided in G.S. 163-293.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in each regular municipal election. The Mayor serving on the date of ratification of this act shall serve until the expiration of his or her term or until a successor is elected and qualified.

"Section 3.3. **Election of Council Members.** Three Council members shall be elected at large in each regular municipal election, as the respective terms expire. The council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified.

"Section 3.4. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The City shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **City Manager; Appointment; Powers and Duties.** The Council shall appoint a City Manager who shall be responsible for the administration of all departments of the City government. The City Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Council, so far as authorized by general law.

"Section 4.3. **City Attorney.** The Council shall appoint a City Attorney licensed to practice law in North Carolina. It shall be the

duty of the City Attorney to represent the City, advise City officials, and perform other duties as required by law or as the Council may prescribe.

"Section 4.4. **City Clerk.** The Council shall appoint a City Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties as required by law or as the Council may prescribe.

"Section 4.5. **Chief of Police.** The Council shall appoint a Chief of Police to maintain the peace and order of the community, enforce the laws, and perform such other duties as required by law or as the Council may prescribe.

"Section 4.6. **Tax Collector.** The Council shall appoint a Tax Collector to collect all taxes owed to the City, perform those duties specified in G.S. 105-350, and such other duties as required by law or as the Council may prescribe.

"Section 4.7. **Other Administrative Officers and Employees.** The Council may authorize other positions to be filled by appointment by the City Manager and may organize the City government as deemed appropriate, subject to the requirements of general law.

"Section 4.8. **Council-Manager Relationship.** The Council shall hold the City Manager responsible for the proper management of the affairs of the City and he or she shall keep the Council informed of the conditions and needs of the City and shall make such reports and recommendations as may be requested by the Council or as he or she may deem necessary. The City Manager shall have the authority to appoint and remove all officers, department heads, and employees in the administrative service of the City, except those provided in this Charter to be appointed and removed by the Council. The City Manager shall have direct supervisory authority over the City Attorney, City Clerk, Chief of Police, and Tax Collector in the performance of their respective duties and responsibilities. Neither the Mayor, the City Council, nor any member thereof shall direct the conduct or activities of any City employee, directly or indirectly, except through the City Manager.

"Section 4.9. **Settlement of Claims by City Manager.** The Council may authorize the City Manager to settle claims against the City for (i) personal injuries or damages to property when the amount involved does not exceed the sum of five thousand dollars ($5,000) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed five thousand dollars ($5,000) and does not exceed the actual loss sustained. Settlement of a claim by the City Manager pursuant to this section shall constitute a complete release of the City from any and all damages sustained by the person involved in such settlement in any manner arising out of the

incident, occasion, or taking complained of. All such settlements and all such releases shall be approved in advance by the City Attorney.

"ARTICLE V. STREETS AND SIDEWALKS.

"Section 5.1. **Assessments for Sidewalk or Curb and Gutter Improvements; Petition Unnecessary.** In addition to any authority granted by general law, the Council may levy special assessments for sidewalk improvements or repairs or curb and gutter improvements or repairs without the necessity of a petition. Improvements or repairs may be ordered according to standards and specifications of the City, and four-fifths of the total costs assessed against abutting property, not including the cost of improvements made at intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes. In ordering improvements or repairs without a petition and assessing the costs thereof under authority of this Article, the Council shall comply with the procedures provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to petitions of property owners and the sufficiency thereof. The effect of levying assessments under authority of this Article shall be the same as if the assessments were levied under Authority of Article 10 of Chapter 160A of the General Statutes.

"Section 5.2. **Acquisition of Street Right-of-Way Outside City Limits.** The authority of the City to acquire street right-of-way outside the corporate limits shall continue as provided in Chapter 177, Session Laws of 1985.

"ARTICLE VI. POLICE.

"Section 6.1. **City Police/Service of Civil Process.** In addition to the authority granted by G.S. 160A-285, City police officers shall have the power to serve civil citations, notices, complaints, and orders issued by the governing body or by a public officer of the City. Such authority shall exist within the corporate limits and the extraterritorial police jurisdiction as defined in G.S. 160A-286.

"ARTICLE VII. BIDDING AND PROCUREMENT.

"Section 7.1. **Force Account Work.** The authority of the City to proceed under G.S. 143-135 when work is performed by appointed agents using labor crews and equipment leased on a per diem basis shall continue as provided in Chapter 128, Session Laws of 1985.

"Section 7.2. **Natural Gas Purchases.** The authority of the City to purchase natural gas for consumption or resale using the informal bidding procedure of G.S. 143-131 shall continue as provided in Chapter 18, Session Laws of 1989.

"ARTICLE VIII. FIREFIGHTERS' RETIREMENT FUND.

"Section 8.1. **Fireman's Supplemental Retirement Fund.** The Monroe Fireman's Supplemental Retirement Fund shall continue as authorized by Chapter 31, Session Laws of 1975; Chapter 532, Session Laws of 1981; and any subsequent acts.

"ARTICLE IX. ALCOHOLIC BEVERAGE CONTROL.

"Section 9.1. **Alcoholic Beverage Control Stores.** Alcoholic Beverage Control Stores shall operate within the City of Monroe as provided in Chapter 541, Session Laws of 1963, as amended by

Chapter 165, Session Laws of 1965; Chapter 197, Session Laws of 1989; Chapter 32, Session Laws of 1993; and any subsequent acts."

Section 2. The purpose of this act is to revise the Charter of the City of Monroe and to consolidate certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools, or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Section 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 48, Private Laws of 1844-45
Chapter 239, Private Laws of 1848-49, except Section 1
Chapter 171, Private Laws of 1860-61
Chapter 83, Private Laws of 1872-73
Chapter 47, Private Laws of 1881, except for the first clause of Section 1
Chapter 12, Public Laws of 1887
Chapter 4, Private Laws of 1887
Chapter 89, Private Laws of 1887
Chapter 179, Private Laws of 1891
Chapter 48, Private Laws of 1893
Chapter 263, Private Laws of 1893
Chapter 78, Public Laws of 1897
Chapter 76, Private Laws of 1897
Chapter 127, Private Laws of 1897
Chapter 352, Private Laws of 1899
Chapter 434, Private Laws of 1901
Chapter 41, Private Laws of 1905
Chapter 111, Private Laws of 1905
Chapter 314, Private Laws of 1905
Chapter 406, Private Laws of 1905
Chapter 336, Private Laws of 1907, except Section 5
Chapter 352, Private Laws of 1907, except Section 4
Chapter 11, Private Laws of 1908 (Ex. Sess.)
Chapter 269, Private Laws of 1913
Chapter 383, Private Laws of 1913
Chapter 409, Private Laws of 1913
Chapter 455, Private Laws of 1913
Chapter 456, Private Laws of 1913
Chapter 58, Private Laws of 1913 (Ex. Sess.)
Chapter 26, Private Laws of 1917
Chapter 114, Public-Local Laws of 1919, as to Monroe only
Chapter 2, Private Laws of 1920 (Ex. Sess.)
Chapter 76, Private Laws of 1920 (Ex. Sess.)

Chapter 45, Private Laws of 1925, except Section 1
Chapter 187, Private Laws of 1925
Chapter 124, Private Laws of 1927
Chapter 132, Private Laws of 1927
Chapter 21, Private Laws of 1931
Chapter 178, Private Laws of 1933
Chapter 60, Public-Local Laws of 1937
Chapter 210, Public-Local Laws of 1939
Chapter 597, Session Laws of 1945
Chapter 28, Session Laws of 1947
Chapter 166, Session Laws of 1947, except Section 1
Chapter 641, Session Laws of 1949, except Section 1 and Section 2
Chapter 674, Session Laws of 1951
Chapter 123, Session Laws of 1953
Chapter 52, Session Laws of 1955
Chapter 497, Session Laws of 1955
Chapter 185, Session Laws of 1957
Chapter 703, Session Laws of 1957
Chapter 423, Session Laws of 1959
Chapter 466, Session Laws of 1959
Chapter 498, Session Laws of 1959
Chapter 1000, Session Laws of 1959, except Section 5
Chapter 121, Session Laws of 1961
Chapter 10, Session Laws of 1963
Chapter 70, Session Laws of 1963, except Section 11 and Section 13
Chapter 334, Session Laws of 1967
Chapter 370, Session Laws of 1967
Chapter 720, Session Laws of 1971
Chapter 419, Session Laws of 1975, except Section 2
Chapter 511, Session Laws of 1981
Chapter 270, Session Laws of 1983.

Section 5. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Section 6. All existing ordinances, resolutions, and other provisions of the City of Monroe not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Section 7. No action or proceeding pending on the effective date of this act by or against the City or any of its departments or agencies shall be abated or otherwise affected by this act.

Section 8. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed

amended to refer to the amended law or the law which most clearly corresponds to the statutory provision which is superseded or recodified.

Section 10. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2000.

Became law on the date it was ratified.

S.B. 1293 **SESSION LAW 2000-36**

AN ACT TO MODIFY THE TAX LIMIT FOR THE TOWN OF BADIN.

The General Assembly of North Carolina enacts:

Section 1. Section 5.3 of the Charter of the Town of Badin, being Chapter 894, Session Laws of 1989, as rewritten by Section 1 of Chapter 827, Session Laws of 1991, reads as rewritten:

"Sec. 5.3. ~~The Town Council may set an ad valorem tax rate in excess of $.25 per $100 valuation only if the rate meets both of the following conditions:~~

~~(1) The percentage increase in the rate from the previous year's rate does not exceed the percentage increase in the Implicit GNP Price Deflator over the preceding year.~~

~~(2) The increase in the rate does not exceed ten percent (10%) of the rate that applied in the next preceding year.~~

The ad valorem tax rate set by the Town Council shall not exceed the previous year's rate by more than ten percent (10%)."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1553 **SESSION LAW 2000-37**

AN ACT TO AUTHORIZE THE CITY OF LUMBERTON AND THE TOWN OF PINEVILLE TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION AND TO RESTORE THE APPLICABILITY OF THE STATUTE TO THE CITY OF GREENVILLE AFTER ITS ENACTMENT IN 1999 AND ERRONEOUS DELETION IN A LATER ACT THAT SAME YEAR.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 1997-216, as amended by S.L. 1999-17 and S.L. 1999-181, and as rewritten by Section 48(c) of S.L. 1999-456, reads as rewritten:

"Section 2. This act applies to the Cities of Charlotte, Fayetteville, Greensboro, High Point, Rocky Mount, ~~and~~ Wilmington, Greenville,

and Lumberton, and the Towns of Cornelius, Huntersville, ~~and Matthews~~ Matthews, and Pineville only."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1555 **SESSION LAW 2000-38**

AN ACT AUTHORIZING THE CITY OF GASTONIA TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE CITY'S OVERGROWN VEGETATION ORDINANCE.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 1999-58 reads as rewritten:

"Section 2. This act applies to the ~~City~~ Cities of Gastonia and Roanoke Rapids only."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1653 **SESSION LAW 2000-39**

AN ACT AMENDING THE CHARTER OF THE TOWN OF BROADWAY TO ALLOW THE MAYOR TO BE ELECTED IN THE SAME YEARS AS TWO TOWN COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of the Charter of the Town of Broadway, being Chapter 548 of the 1947 Session Laws, as amended by Chapter 789 of the 1949 Session Laws and Chapter 416 of the 1997 Session Laws, reads as rewritten:

"Sec. 3. At the time of the holding of the next general election following ratification of this Act, and thereafter, there shall be elected in the Town of Broadway in accordance with the provisions of Article 3 of Chapter 160 of the General Statutes of North Carolina, as amended, the following officers: A mayor and five town commissioners. ~~The mayor shall be elected for a four-year term.~~ In 2001, the Mayor shall be elected for a two-year term. In 2003 and quadrennially thereafter, the Mayor shall be elected for a four-year term. In 1997, the three persons receiving the highest numbers of votes for town commissioner are elected to four-year terms, and the two persons receiving the next highest numbers of votes for town commissioner are elected to two-year terms. In 1999 and quadrennially thereafter, two town commissioners are elected to four-year terms. In 2001 and quadrennially thereafter, three town commissioners are elected to four-year terms. The mayor and the five town commissioners so elected shall constitute the governing body of

the Town of Broadway, and such governing body may appoint such other officers and employ such assistants as the governing body of the town may deem necessary for the better governance of the town."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1656 **SESSION LAW 2000-40**

AN ACT TO AUTHORIZE THE APPOINTMENT OF A SPECIAL BOARD OF EQUALIZATION AND REVIEW FOR LINCOLN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-322 reads as rewritten:

"*§ 105-322. Lincoln County board of equalization and review.*

(a) ~~Personnel.~~ Board Composed of Commissioners if Special Board Not Appointed. -- ~~Except as otherwise provided herein,~~ If the board of county commissioners does not appoint a special board of equalization and review as provided in this section, the board of equalization and review of ~~each~~ the county shall be composed of the members of the board of county commissioners.

(a1) Appointment of Special Board. -- Upon the adoption of a resolution so providing, the board of commissioners is authorized to appoint a special board of equalization and review to carry out the duties imposed under this section. ~~The resolution shall provide for the membership, qualifications, terms of office and the filling of vacancies on the board.~~ The special board shall be composed of five members and three alternate members. The board of commissioners shall ~~also~~ designate ~~the chairman~~ a chair of the special ~~board.~~ board from the membership of the board. The special board shall elect a vice-chair from its membership to serve as acting chair in the absence of the chair as necessary. To be eligible for appointment to the special board, the board of county commissioners must find that the person has satisfactory knowledge of or experience in real estate, fee appraisals, banking, farming, or other business management.

Members of the special board shall serve a term of two years. No member may serve more than three consecutive terms. Vacancies shall be filled by the board of county commissioners; a successor appointed to fill a vacancy shall serve for the remainder of the term. Members of the special board shall serve at the pleasure of the board of county commissioners.

~~The resolution may also authorize a taxpayer to appeal a decision of the special board with respect to the listing or appraisal of his property or the property of others to the board of county commissioners.~~ The resolution creating the special board shall be adopted not later than the first Monday in March of the year for which it is to be effective and shall continue in effect until revised or rescinded. It shall be entered

in the minutes of the meeting of the board of commissioners and a copy thereof shall be forwarded to the Department of Revenue within 15 days after its adoption.

~~Nothing in this subsection (a) shall be construed as repealing any law creating a special board of equalization and review or creating any board charged with the duties of a board of equalization and review in any county.~~

(a2) Quorum; Alternates. -- A majority of the members of the special board shall constitute a quorum for the purpose of transacting business. A decision of the special board shall be made by a majority of the members present. An alternate member of the special board shall have all the powers and duties of a regular board member when sitting as a member of the board or of any subcommittee or panel created by the board. The board of county commissioners shall adopt a resolution setting forth any other provisions it deems necessary to govern the proceedings of the special board and any subcommittee or panel created by the special board.

(b) Compensation. -- The board of county commissioners shall fix the compensation and allowances to be paid members of the board of equalization and review for their services and expenses.

(c) Oath. -- Each member of the board of equalization and review shall take the oath required by Article VI, § 7 of the North Carolina Constitution with the following phrase added to it: 'that I will not allow my actions as a member of the board of equalization and review to be influenced by personal or political friendships or obligations,'. The oath must be filed with the clerk of the board of county commissioners.

(d) Clerk and Minutes. -- The assessor or a person designated by the assessor shall serve as clerk to the board of equalization and review, shall be present at all meetings, shall maintain accurate minutes of the actions of the board, shall draft all written decisions of the special board, and shall give to the board such information as ~~he~~ the clerk may have or can obtain with respect to the listing and valuation of taxable property in the county. The chair of the special board shall review all written decisions drafted by the clerk. Only the chair of the special board or, in the chair's absence, the vice-chair can execute the decisions of the special board.

(e) Time of Meeting. -- ~~Each~~ Except as otherwise provided in this section, each year the board of equalization and review shall hold its first meeting not earlier than the first Monday in April and not later than the first Monday in May. ~~In years in which a county does not conduct a real property revaluation, the~~ The board shall complete its duties on or before the ~~third Monday following its first meeting~~ advertised adjournment date unless, in its opinion, a longer period of time is necessary or expedient to a proper execution of its responsibilities. ~~In no event shall~~ Except as provided in subdivision (g)(7) of this section, the board may not sit later than July 1 except to hear and determine requests made under the provisions of subdivision (g)(2), below, when such requests are made within the time

prescribed by law. ~~In the year in which a county conducts a real property revaluation, the board shall complete its duties on or before December 1, except that it may sit after that date to hear and determine requests made under the provisions of subdivision (g)(2), below, when such requests are made within the time prescribed by law. From the time of its first meeting until its adjournment, the~~ The board shall meet at such times as it deems reasonably necessary to perform its statutory duties and to receive requests and hear the appeals of taxpayers under the provisions of ~~subdivision (g)(2), below.~~ this section.

(f) Notice of Meetings and Adjournment. -- A notice of the date, hours, place, and purpose of the first meeting of the board of equalization and review shall be published at least three times in some newspaper having general circulation in the county, the first publication to be at least 10 days prior to the first meeting. The notice shall also state the dates and hours on which the board will meet following its first meeting and the date on which it expects to adjourn; it shall also carry a statement that in the event of earlier or later adjournment, notice to that effect will be published in the same newspaper. Should a notice be required on account of earlier adjournment, it shall be published at least once in the newspaper in which the first notice was published, such publication to be at least five days prior to the date fixed for adjournment. Should a notice be required on account of later adjournment, it shall be published at least once in the newspaper in which the first notice was published, such publication to be prior to the date first announced for adjournment.

(g) Powers and Duties. -- The board of equalization and review has the following powers and duties:

(1) ~~Powers and Duties. -- It shall be the duty of the board of equalization and review to~~ Duty to Review Tax Lists. -- The board shall examine and review the tax lists of the county for the current year to the end that all taxable property shall be listed on the abstracts and tax records of the county and appraised according to the standard required by G.S. 105-283, and the board shall correct the abstracts and tax records to conform to the provisions of this Subchapter. In carrying out its responsibilities under this subdivision (g)(1), the board, on its own motion or on sufficient cause shown by any person, shall:

a. List, appraise, and assess any taxable real or personal property that has been omitted from the tax lists.
b. Correct all errors in the names of persons and in the description of properties subject to taxation.
c. Increase or reduce the appraised value of any property that, in the board's opinion, ~~shall have~~ has been listed and appraised at a figure that is below or above the appraisal required by G.S. 105-283; however, the board shall not change the appraised value of any real property from that at which it was appraised for the preceding

year except in accordance with the terms of G.S. 105-286 and 105-287.

d. Cause to be done whatever else ~~shall be~~ is necessary to make the lists and tax records comply with the provisions of this Subchapter.

e. Embody actions taken under the provisions of subdivisions (g)(1)a through (g)(1)d, above, in appropriate orders and have the orders entered in the minutes of the board.

f. Give written notice to the taxpayer at ~~his~~ the taxpayer's last-known address in the event the ~~board shall,~~ board, by appropriate order, ~~increase~~ increases the appraisal of any property or ~~list~~ lists for taxation any property omitted from the tax lists under the provisions of this subdivision (g)(1).

(2) Duty to Hear Taxpayer Appeals. -- On request, the board of equalization and review shall hear any taxpayer who owns or controls property taxable in the county with respect to the listing or appraisal of ~~his~~ the taxpayer's property or the property of others.

a. A request for a hearing under this subdivision (g)(2) shall be made in writing to or by personal appearance before the board prior to its adjournment. However, if the taxpayer requests review of a decision made by the board under the provisions of subdivision (g)(1), above, notice of which was mailed fewer than 15 days prior to the board's adjournment, the request for a hearing thereon may be made within 15 days after the notice of the board's decision was mailed.

b. Taxpayers may file separate or joint requests for hearings under the provisions of this subdivision (g)(2) at their election.

c. At a hearing under provisions of this subdivision (g)(2), the board, in addition to the powers it may exercise under the provisions of subdivision (g)(3), below, shall hear any evidence offered by the appellant, the assessor, and other county officials that is pertinent to the decision of the appeal. Upon the request of an appellant, the board shall subpoena witnesses or documents if there is a reasonable basis for believing that the witnesses have or the documents contain information pertinent to the decision of the appeal.

d. On the basis of its decision after any hearing conducted under this subdivision (g)(2), the board shall adopt and have entered in its minutes an order reducing, increasing, or confirming the appraisal appealed or listing or removing from the tax lists the property whose omission or listing has been appealed. The board shall notify the appellant by mail as to the action taken on ~~his~~

the appeal not later than 30 days after the board's adjournment.

(3) Powers in Carrying Out Duties. -- In the performance of its duties under subdivisions (g)(1) and (g)(2), above, the board of equalization and review may exercise the following powers:

a. It may appoint committees composed of its own members or other persons to assist it in making investigations necessary to its work. It may also employ expert appraisers in its discretion. The expense of the employment of committees or appraisers shall be borne by the county. The board may, in its discretion, require the taxpayer to reimburse the county for the cost of any appraisal by experts demanded by ~~him~~ the taxpayer if the appraisal does not result in material reduction of the valuation of the property appraised and if the appraisal is not subsequently reduced materially by the board or by the Department of Revenue.

b. The board, in its discretion, may examine any witnesses and documents. It may place any witnesses under oath administered by any member of the board. It may subpoena witnesses or documents on its own motion, and it must do so when a request is made under the provisions of subdivision (g)(2)c, above.

A subpoena issued by the board shall be signed by the ~~chairman~~ chair of the board, directed to the witness or to the person having custody of the document, and served by an officer authorized to serve subpoenas. Any person who willfully fails to appear or to produce documents in response to a subpoena or to testify when appearing in response to a subpoena shall be guilty of a Class 1 misdemeanor.

(4) Power to Submit Reports. -- Upon the completion of its other duties, the board may submit to the Department of Revenue a report outlining the quality of the reappraisal, any problems it encountered in the reappraisal process, the number of appeals submitted to the board and to the Property Tax Commission, the success rate of the appeals submitted, and the name of the firm that conducted the reappraisal. A copy of the report should be sent by the board to the firm that conducted the reappraisal.

(5) Duty to Appoint Motor Vehicle Review Subcommittee. -- The chair of the board of equalization and review shall appoint a subcommittee at the board's first meeting of the calendar year. The subcommittee shall hear and decide all appeals relating to the appraisal, situs, and taxability of classified motor vehicles under G.S. 105-330.2(b) and may meet as needed to exercise this authority. The subcommittee shall consist of three board members and three alternate

members, which may include the alternate board members. Three members shall constitute a quorum for the purpose of transacting business. A decision of the subcommittee shall be made by a majority of the members.

(6) Power to Designate Reappraisal Year Panels. -- In any reappraisal year, the chair of the board of equalization and review may divide the board into separate panels consisting of three members, which may include the alternate board members. The chair shall designate one member of each panel to serve as its chair and may change the members of the panels during the year. Three members of each panel shall constitute a quorum for the purpose of transacting business. A decision of the panel shall be made by a majority of the members. A decision of a panel constitutes a decision of the board of equalization and review.

(7) Duty to Change Abstracts and Records After Adjournment. -- Following adjournment upon completion of its duties under subdivisions (g)(1) and (g)(2) of this section, the board shall continue to meet to carry out the following duties:

a. To hear and decide all appeals relating to discovered property under G.S. 105-312(d) and (k).

b. To hear and decide all appeals relating to the appraisal, situs, and taxability of classified motor vehicles under G.S. 105-330.2(b), as provided in subdivision (g)(5) of this section.

c. To hear and decide all appeals relating to audits conducted under G.S. 105-296(j) and (l) of property classified at present-use value and property exempted or excluded from taxation."

Section 2. Two of the initial five appointees to the special board of equalization and review shall be appointed to serve a one-year term.

Section 3. This act applies only to Lincoln County.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1659 **SESSION LAW 2000-41**

AN ACT TO ESTABLISH NO-WAKE SPEED ZONES IN CARTERET COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to operate a vessel at greater than no-wake speed in Gallant's Channel in Carteret County from Duke Marine Laboratory's south docks to the rock jetty on the east side of

Radio Island. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 2. It is unlawful to operate a vessel at greater than no-wake speed in Bogue Sound at Salter Path in Carteret County in an area from Mariner's Point to the west boundary line of the Salter Path community and extending 100 feet from the shoreline into the sound. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 3. With regard to marking the no-wake speed zones established in Sections 1 and 2 of this act, Carteret County or its designee may place and maintain the markers in accordance with the Uniform Waterway Marking System and any supplementary standards from such a system adopted by the Wildlife Resources Commission. All markers of the no-wake speed zone shall be buoys or floating signs placed in the water and must be sufficient in number and size to give adequate warning of the no-wake speed zone to the vessels approaching from various directions.

Section 4. This act is enforceable under G.S. 75A-17 as if it were a provision of Chapter 75A of the General Statutes.

Section 5. Violation of Section 1 or 2 of this act is a Class 3 misdemeanor.

Section 6. This act applies only to Carteret County.

Section 7. This act is effective when it becomes law and is enforceable after markers complying with Section 3 of this act are placed in the water.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1695 **SESSION LAW 2000-42**

AN ACT TO MAKE CHANGES IN THE CHARTER OF THE CITY OF NEW BERN RELATING TO THE MAYOR AND MAYOR PRO TEM.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of the Charter of the City of New Bern, being Chapter 1281 of the 1957 Session Laws, as amended by Chapter 266 of the 1983 Session Laws and Section 4 of Chapter 64 of the 1985 Session Laws, reads as rewritten:

"Sec. 6. Mayor and Mayor Pro Tem. At its first meeting in the month of ~~July following a regular municipal election~~ December the board of aldermen shall choose one of its members as mayor pro ~~tem.~~ tem to serve for a term of one year. The mayor pro tem shall act as mayor whenever the mayor shall be absent from the city or be prevented by sickness or other cause from attending to the duties of his office and he shall possess all the rights and powers of the mayor during the continuance of such vacancy, absence or disability. The mayor shall preside at meetings of the board of aldermen and shall

exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by the general laws of North Carolina, by this Charter and the ordinances of the city. The Mayor shall have the right to vote on ~~any~~ a question before the board of ~~aldermen, and shall do so as if he were a member of the board.~~ aldermen only in the case of a tie. He shall be recognized as the head of the city government for all ceremonial purposes, by the courts for serving civil processes, and by the Governor for purposes of military law. ~~For the purposes of Sections 8, 9, and 10 of this act, the mayor shall be considered to be an elected member of the board of aldermen.~~"

Section 2. Section 19 of the Charter of the City of New Bern, being Chapter 1281 of the 1957 Session Laws, as amended by Section 10 of Chapter 1111 of the 1961 Session Laws, reads as rewritten:

"Sec. 19. Eligibility of Candidates for Mayor; ~~One Year~~ Residence and Certain Other Qualifications ~~Required; No Third Term in Succession.~~ Required. That no person shall be eligible as mayor unless he shall be a qualified voter for a member of the General Assembly of this State, and shall have been a resident of the City of New Bern for thirty (30) days immediately preceding his ~~election, and no person who has been elected mayor for two full terms shall be eligible as his own immediate successor.~~ election."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1732 **SESSION LAW 2000-43**

AN ACT AUTHORIZING THE TOWN OF OCEAN ISLE BEACH TO PROTECT AND REGULATE EROSION CONTROL WORKS AS A PUBLIC ENTERPRISE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 94 of the 1997 Session Laws reads as rewritten:

"Section 3. This act is effective when it becomes law and applies only to the ~~Town~~ Towns of Kure ~~Beach.~~ Beach and Ocean Isle Beach."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1739 **SESSION LAW 2000-44**

AN ACT TO AMEND THE CHARTER OF THE CITY OF ASHEVILLE RESPECTING THE CALLING OF SPECIAL

MEETINGS, AND TO REPEAL AN ACT RESPECTING THE REMOVAL OF GARBAGE WITHIN THAT CITY.

The General Assembly of North Carolina enacts:

Section 1. Section 8 of the Charter of the City of Asheville, being Chapter 121 of the Private Laws of 1931, as amended by Section IV of Ordinance No. 1501 of the City of Asheville, adopted March 19, 1985, pursuant to Part 4 of Article 5 of Chapter 160A of the General Statutes, and as rewritten by S.L. 1998-31, reads as rewritten:

"On its first regular meeting date in December following a regular municipal election, the council shall meet at the usual place for holding its meetings, and the newly elected mayor and councilmembers shall assume the duties of office. Before entering upon the duties of their offices, the newly elected mayor and ~~councilmen~~ councilmembers shall severally make oath before the retiring mayor, city clerk or some person authorized by law to administer oaths to perform faithfully the duties of their respective offices. Thereafter the council shall meet at such times as may be prescribed by ordinance or resolution. Special meetings ~~shall~~ may be called ~~by the clerk upon written request of the mayor or of the city manager or of three members of the council. No less than 12 hours' notice of special meetings shall be given to each member of the council at such address, within the corporate limits of the City of Asheville, as he shall designate and such notice shall be published at least once prior to the meeting in a daily newspaper of the city. The notice must state the subject or subjects to be considered at the meeting and no other subject or subjects may be there considered.~~ in the manner provided by general law."

Section 2. Section 194 of Chapter 16 of the Private Laws of 1923, as amended by Section 87 of Chapter 121 of the Private Laws of 1931 (sometimes referred to as Section 22 of the Related Laws of the City of Asheville) is repealed.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1744 **SESSION LAW 2000-45**

AN ACT AMENDING THE CHARTER OF THE TOWN OF ROWLAND TO PROVIDE THAT TOWN ELECTIONS SHALL BE CONDUCTED USING THE NONPARTISAN PLURALITY METHOD.

The General Assembly of North Carolina enacts:

Section 1. Section 3.1 of the Charter of the Town of Rowland, being S.L. 1998-105, reads as rewritten:

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined ~~using the nonpartisan election and runoff election method as provided in G.S. 163-279(a)(4) and G.S. 163-293.~~ by a plurality as provided in G.S. 163-292."

Section 2. This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1756 **SESSION LAW 2000-46**

AN ACT TO REPEAL CHAPTER 61 OF THE 1989 SESSION LAWS WHICH ALLOWED PASQUOTANK COUNTY ADDITIONAL FLEXIBILITY TO FUND PUBLIC SCHOOL CONSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 61 of the 1989 Session Laws is repealed.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1779 **SESSION LAW 2000-47**

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO AUTHORIZE THE CITY TO ESTABLISH REQUIREMENTS CONCERNING SWEATSHOPS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is amended by adding a new section to read:

"Section 84.4. **Anti-Sweatshop Requirements.** (a) The City Council may establish, agree to, and comply with anti-sweatshop requirements by including the requirements in the specifications for contracts to purchase or rent apparel or textiles and awarding bids pursuant to G.S. 143-129 and G.S. 143-131, if applicable, to the lowest responsible bidders meeting these and other specifications. Anti-sweatshop requirements may include:

(1) Prohibitions against violations of applicable law or regulation, forced labor, or employment of children; and

(2) The disclosure of:

a. The locations and ownership of the manufacturing company where the apparel or textiles are made, finished, packed, or otherwise processed;

b. Compensation to workers; and
c. Any other information necessary and proper for the enforcement of other anti-sweatshop requirements and not in violation of any other State law.

(b) The authority granted by this section is in addition to, and not in derogation of, any other authority granted by this Charter or any other law."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1783 **SESSION LAW 2000-48**

AN ACT ALLOWING THE DISPOSITION OF CERTAIN PROPERTY OF THE TOWN OF OCEAN ISLE BEACH, THE CITY OF KINSTON, AND LENOIR COUNTY BY PRIVATE SALE.

The General Assembly of North Carolina enacts:

Section 1. When the governing board of the Town of Ocean Isle Beach determines that a sale or disposition of property will advance or further any adopted economic development, transportation, urban revitalization, community development, or land-use plan or policy, the Town may, in addition to other authorized means, sell, exchange, or transfer the fee or any lesser interest in approximately 20 acres of real property on Old Georgetown Road, either by public sale or by negotiated private sale. The Town may attach to the transfer and to the interest conveyed such covenants, conditions, or restrictions (or a combination of them) the Town deems necessary to further such adopted policies or plans. The consideration received by the Town, if any, for such conveyance may reflect the restricted use of the property resulting from such covenants, conditions, or restrictions. An interest in property pursuant to this section may be conveyed only pursuant to resolution of the governing board authorizing the conveyance. Notice of the proposed transaction shall be given at least 10 days prior to adoption of the resolution by publication in a newspaper of general circulation, generally describing:

(1) The property involved;
(2) The nature of the interest to be conveyed; and
(3) All of the material terms of the proposed transaction, including any covenants, conditions, or restrictions which may be applicable.

The notice shall give the time and place of the meeting where the proposed transaction will be considered and shall announce the governing board's intention to authorize the proposed transaction.

Section 2. Section 1 of Chapter 1148 of the 1981 Session Laws reads as rewritten:

"Section 1. Lenoir County and the City of Kinston ~~are authorized to~~ may:

(1) Sell ~~sell~~ or lease the real property known as "Adkin School Property" for low-income housing development purposes, and in sale or lease of such real property;

(2) Acquire real property for the purpose of relocation housing for flood victims of Hurricanes Fran and Floyd, and in the sale or lease of such real property for relocation housing purposes

are exempt from restrictions and limitations required to effectuate leases or sales of real property provided for in Article 12 of Chapter 160A of the General Statutes or in the Charter of City of Kinston, as found in ~~Chapter 92, Session Laws of 1961~~ Chapter 187, Session Laws of 1987 as amended."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1802 **SESSION LAW 2000-49**

AN ACT TO AMEND THE CHARTER OF THE CITY OF SALISBURY TO ALLOW THE SALE OF PROPERTY LOCATED WITHIN A DESIGNATED COMMUNITY AND ECONOMIC DEVELOPMENT PROJECT AREA.

The General Assembly of North Carolina enacts:

Section 1. The existing "SUBCHAPTER A. SALE OF PROPERTY" of Chapter IX of the Charter of the City of Salisbury found in Section 1 of Chapter 205 of the 1987 Session Laws reads as rewritten:

~~"SUBCHAPTER A. SALE OF PROPERTY~~

~~"Sec. 9.1. Public or private sale of property. The City Council may publicly or privately sell, lease, rent, exchange or otherwise convey, or cause to be publicly or privately sold, leased, rented, exchanged or otherwise conveyed, any property, real or personal or any interest in such property, belonging to the City.~~

"SUBCHAPTER A. SALE OF PROPERTY LOCATED WITHIN A DESIGNATED COMMUNITY AND ECONOMIC DEVELOPMENT PROJECT AREA.

"Sec. 9.1. **Public or Private Sale of Property Located Within a Designated Community and Economic Development Project Area.** The City may, when it deems it necessary for the health, safety, and welfare of the City, designate an area as a 'Community and Economic Development Project Area.' When the City Council determines that a sale or disposition of City-owned property located within a designated Community and Economic Development Project Area is necessary, the City may, in addition to other means, sell, exchange, or transfer the

fee or any lesser interest in real property, either by public sale or by negotiated private sale. The City may attach to the transfer and to the interest conveyed any covenants, conditions, or restrictions (or any combination of these) as the City deems necessary to further any adopted policies or plans. The consideration received by the City, if any, for the conveyance may reflect the restricted use of the property resulting from the covenants, conditions, or restrictions. An interest in property, pursuant to this section, may be conveyed only pursuant to a resolution of the City Council authorizing the conveyance.

Notice of the proposed transaction shall be given at least 10 days prior to adoption of the resolution by publication in a newspaper of general circulation, generally describing all of the following:

(1) The project area designated by the City Council as a Designated Community and Economic Development Project Area.
(2) The specific property involved.
(3) The nature of the interest to be conveyed.
(4) All of the material terms of the proposed transaction, including any covenants, conditions, or restrictions which may be applicable.

The notice shall give the time and the place of the Council meeting where the proposed transaction will be considered and shall announce the Council's intention to authorize the proposed transaction."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1514 **SESSION LAW 2000-50**

AN ACT TO REPEAL THE SUNSET ON REQUIREMENTS PERTAINING TO THE REIMBURSEMENT RATE FOR THE RESPITE CARE PROGRAM, AND TO AUTHORIZE THE MEDICAL CARE COMMISSION TO ADOPT TEMPORARY RULES PERTAINING TO RESPITE CARE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of S.L. 1998-97 reads as rewritten:

"Section 3. This act is effective when it becomes ~~law and expires July 1, 2000.~~ law."

Section 2. Notwithstanding G.S. 150B-21.1(a), the Medical Care Commission shall adopt temporary rules for the purpose of defining the circumstances under which adult care homes may admit residents on a short-term basis for the purpose of caregiver respite and the rules that shall apply during the course of their stay. The Commission's authority to adopt temporary rules under this section expires on the date that permanent rules pertaining to the same subject matter adopted by the Commission as authorized under G.S. 143B-165(10) become effective.

law.

In the General Assembly read three times and ratified this the 22nd day of June, 2000.

Became law upon approval of the Governor at 1:20 p.m. on the 30th day of June, 2000.

S.B. 1279 **SESSION LAW 2000-51**

AN ACT TO PROVIDE THAT CERTAIN REQUIREMENTS RELATED TO LAND-USE RESTRICTIONS THAT APPLY GENERALLY TO RISK-BASED ENVIRONMENTAL CLEANUPS DO NOT APPLY TO CLEANUPS OF PETROLEUM FROM LEAKING UNDERGROUND STORAGE TANKS AND TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO CONTINUE TO STUDY THE APPLICATION OF LAND-USE RESTRICTIONS TO THE CLEANUP OF ENVIRONMENTAL DAMAGE FROM THESE TANKS THROUGH A STAKEHOLDER NEGOTIATION PROCESS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-279.9 reads as rewritten:

"§ *143B-279.9. Land-use restrictions may be imposed to reduce danger to public health at contaminated sites.*

(a) In order to reduce or eliminate the danger to public health or the environment posed by the presence of contamination at a site, an owner, operator, or other responsible party may impose restrictions on the current or future use of the real property comprising any part of the site where the contamination is located if the restrictions meet the requirements of this section. The restrictions must be agreed to by the owner of the real property, included in a remedial action plan for the site that has been approved by the Secretary, and implemented as a part of the remedial action program for the site. The Secretary may approve restrictions included in a remedial action plan in accordance with standards that the Secretary determines to be applicable to the site. ~~If~~ Except as provided in subsection (b) of this section, if the remedial action is risk-based or will not require that the site meet current standards, as defined in G.S. 130A-310.31, the remedial action plan must include an agreement by the owner, operator, or other responsible party to record approved land-use restrictions that meet the requirements of this section as provided in G.S. 143B-279.10. Restrictions may apply to activities on, over, or under the land, including, but not limited to, use of groundwater, building, filling, grading, excavating, and mining. Any approved restriction shall be enforced by any owner, operator, or other party responsible for the contaminated site. Any land-use restriction may also be enforced by the Department through the remedies provided by any provision of law that is implemented or enforced by the Department or

by means of a civil action. The Department may enforce any land-use restriction without first having exhausted any available administrative remedies. A land-use restriction may also be enforced by any unit of local government having jurisdiction over any part of the site. A land-use restriction shall not be declared unenforceable due to lack of privity of estate or contract, due to lack of benefit to particular land, or due to lack of any property interest in particular land. Any person who owns or leases a property subject to a land-use restriction under this Part shall abide by the land-use restriction.

(b) Subsection (a) of this section shall not apply to a risk-based remedial action plan for the cleanup of environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes.

Section 2. G.S. 143B-279.10(f) reads as rewritten:

"(f) A Notice of Contaminated Site filed pursuant to this section ~~may,~~ shall, at the request of the owner of the land, be cancelled by the Secretary after the contamination has been ~~eliminated,~~ eliminated or remediated to current standards, as defined in G.S. 130A-310.31. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the contamination has been ~~eliminated~~ eliminated, or that the contamination has been remediated to current standards, and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded. The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice and on the grantee index in the name "Secretary of Environment and Natural Resources". The register of deeds shall make a marginal entry on the Notice showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall not be required to make a marginal entry."

Section 3. The Environmental Review Commission shall continue to study the application of land-use restrictions to the cleanup of environmental damage resulting from discharges and releases of petroleum from underground storage tanks through a stakeholder negotiation process. As a part of this study, the Commission shall consider issues related to notice to current and future users of real property of any restrictions on the current and future use of the property, mechanisms to ensure compliance with those restrictions, notice to current and future users of real property of the existence of contamination in excess of current standards, and issues related to recordation in the register of deeds office of this information. The

Commission shall report its findings and recommendations, including any legislative proposals, to the 2001 General Assembly.

Section 4. Sections 1 and 2 of this act are effective retroactively to 1 October 1999. Sections 3 and 4 of this act are effective when this act becomes law. Section 1 of this act expires 1 September 2001.

In the General Assembly read three times and ratified this the 26th day of June, 2000.

Became law upon approval of the Governor at 1:22 p.m. on the 30th day of June, 2000.

H.B. 541 **SESSION LAW 2000-52**

AN ACT TO AMEND THE STATUTES REGULATING THE OPERATION OF PERSONAL WATERCRAFT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75A-13.3 is amended by adding a new subsection to read:

"(a1) No person shall operate a personal watercraft on the waters of this State at greater than no-wake speed within 100 feet of an anchored or moored vessel, a dock, pier, swim float, marked swimming area, swimmers, surfers, persons engaged in angling, or any manually operated propelled vessel, unless the personal watercraft is operating in a narrow channel. No person shall operate a personal watercraft in a narrow channel at greater than no-wake speed within 50 feet of an anchored or moored vessel, a dock, pier, swim float, marked swimming area, swimmers, surfers, persons engaged in angling, or any manually operated propelled vessel."

Section 2. G.S. 75A-13.3(e) reads as rewritten:

"(e) A personal watercraft must at all times be operated in a reasonable and prudent manner. Maneuvers that endanger life, limb, or property shall constitute reckless operation of a vessel as provided in G.S. 75A-10, and include:

(1) Unreasonably or unnecessarily weaving through congested vessel traffic;

(2) Jumping the wake of another vessel within 100 feet of such other vessel or when visibility around such other vessel is obstructed;

(3) Intentionally approaching another vessel in order to swerve at the last possible moment to avoid collision; and

~~(4) Operating at greater than no-wake speed within 100 feet of an anchored or moored vessel, the shoreline, a dock, pier, swim float, marked swimming area, swimmers, surfers, persons engaged in angling, or any manually operated propelled vessel; and~~

(5) Operating contrary to the "rules of the road" or following too closely to another vessel, including another personal watercraft. For purposes of this subdivision, "following too

closely" means proceeding in the same direction and operating at a speed in excess of 10 miles per hour when approaching within 100 feet to the rear or 50 feet to the side of another vessel that is underway unless that vessel is operating in a narrow channel, in which case a personal watercraft may operate at the speed and flow of other vessel traffic."

Section 3. G.S. 75A-13.3 is amended by adding a new subsection to read:

"(f1) For purposes of this section, "narrow channel" means a segment of the waters of the State 300 feet or less in width."

Section 4. G.S. 75A-13.3(h) reads as rewritten:

"(h) Nothing in this section prohibits units of local government, marine commissions, or local ~~wake~~ lake authorities from regulating personal watercraft pursuant to the provisions of G.S. 160A-176.2 or any other law authorizing such regulation, provided that the regulations are more restrictive than the provisions of this section or regulate aspects of personal watercraft operation that are not covered by this section. Whenever a unit of local government, marine commission, or local ~~wake~~ lake authority regulates personal watercraft pursuant to this subsection, it shall conspicuously post signs that are reasonably calculated to provide notice to personal watercraft users of the stricter regulations."

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of June, 2000.

Became law upon approval of the Governor at 1:25 p.m. on the 30th day of June, 2000.

H.B. 1593 **SESSION LAW 2000-53**

AN ACT TO EXTEND THE STUDY COMMISSION ON THE FUTURE OF ELECTRIC SERVICE IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of S.L. 1997-40 reads as rewritten:

"Section 4. The Commission shall make a report to the 1998 Regular Session of the 1997 General Assembly, which may contain recommendations, and shall report the results of its study and its recommendations to the 1999 General Assembly. ~~The Commission shall terminate upon filing its final report.~~ The Commission shall report periodically thereafter and shall terminate June 30, 2006."

Section 2. This act becomes effective May 1, 2000.

In the General Assembly read three times and ratified this the 22nd day of June, 2000.

Became law upon approval of the Governor at 1:27 p.m. on the 30th day of June, 2000.

H.B. 1618 **SESSION LAW 2000-54**

AN ACT TO EXTEND THE DE MINIMIS REPORTING EXCEPTION TO ALL DISCHARGES OF PETROLEUM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.85 reads as rewritten:

"*§ 143-215.85. Required notice.*

(a) ~~Every~~ Except as provided in G.S. 143-215.94E(a1) and subsection (b) of this section, every person owning or having control over oil or other substances discharged in any circumstances other than pursuant to a rule adopted by the Commission, a regulation of the U. S. Environmental Protection Agency, or a permit required by G.S. 143-215.1 or the Federal Water Pollution Control Act, upon notice that such discharge has occurred, shall immediately notify the Department, or any of its agents or employees, of the nature, location and time of the discharge and of the measures which are being taken or are proposed to be taken to contain and remove the discharge. The agent or employee of the Department receiving the notification shall immediately notify the Secretary or such member or members of the permanent staff of the Department as the Secretary may designate. If the discharged substance of which the Department is notified is a pesticide regulated by the North Carolina Pesticide Board, the Department shall immediately inform the Chairman of the Pesticide Board. Removal operations under this Article of substances identified as pesticides defined in G.S. 143-460 shall be coordinated in accordance with the Pesticide Emergency Plan adopted by the North Carolina Pesticide Board; provided that, in instances where entry of such hazardous substances into waters of the State is imminent, the Department may take such actions as are necessary to physically contain or divert such substance so as to prevent entry into the surface waters.

(b) As used in this subsection, 'petroleum' has the same meaning as in G.S. 143-215.94A. A person who owns or has control over petroleum that is discharged into the environment shall immediately take measures to collect and remove the discharge, report the discharge to the Department within 24 hours of the discharge, and begin to restore the area affected by the discharge in accordance with the requirements of this Article if the volume of the petroleum that is discharged is 25 gallons or more or if the petroleum causes a sheen on nearby surface water or if the petroleum is discharged at a distance of 100 feet or less from any surface water body. If the volume of petroleum that is discharged is less than 25 gallons, the petroleum does not cause a sheen on nearby surface water, and the petroleum is discharged at a distance of more than 100 feet from all surface water bodies, the person who owns or has control over the petroleum shall immediately take measures to collect and remove the discharge. If a

discharge of less than 25 gallons of petroleum cannot be cleaned up within 24 hours of the discharge or if the discharge causes a sheen on nearby surface water, the person who owns or has control over the petroleum shall immediately notify the Department."

Section 2. This act is effective when it becomes law and applies to any discharge of petroleum into the environment that occurs on or after that date.

In the General Assembly read three times and ratified this the 28th day of June, 2000.

Became law upon approval of the Governor at 1:30 p.m. on the 30th day of June, 2000.

S.B. 1179 **SESSION LAW 2000-55**

AN ACT PERTAINING TO REPORTING REQUIREMENTS FOR THE HEALTH CARE PERSONNEL REGISTRY; IMPOSING PENALTIES FOR VIOLATIONS OF LICENSING AND OTHER REQUIREMENTS FOR CERTAIN MENTAL HEALTH FACILITIES; AND AUTHORIZING THE ADOPTION OF CERTAIN TEMPORARY AND PERMANENT RULES TO IMPLEMENT REQUIREMENTS FOR CERTAIN MENTAL HEALTH FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-256(g) reads as rewritten:

"(g) ~~Upon investigation and documentation, health~~ Health care facilities shall ensure that the Department is notified of all ~~substantiated~~ allegations against health care ~~personnel~~ personnel, including injuries of unknown source, which appear to ~~a reasonable person to~~ be related to any act listed in subdivision (a)(1) of this ~~section, and shall promptly report to the Department any resulting disciplinary action, demotion, or termination of employment of health care personnel.~~ section. Facilities must have evidence that all alleged acts are investigated and must make every effort to protect residents from harm while the investigation is in progress. The results of all investigations must be reported to the Department within five working days of the initial notification to the Department."

Section 2. Article 15 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"*§ 131E-256.1. Adverse action on a license; appeal procedures.*

(a) The Department may suspend, cancel, or amend a license when a facility subject to this Article has substantially failed to comply with this Article or rules adopted under this Article.

(b) Administrative action taken by the Department under this section shall be in accordance with Chapter 150B of the General Statutes."

Section 3. G.S. 122C-23 is amended by adding the following new subsection to read:

"(g) The Secretary may suspend the admission of any new clients to a facility licensed under this Article where the conditions of the facility

are detrimental to the health or safety of the clients. This suspension shall be for the period determined by the Secretary and shall remain in effect until the Secretary is satisfied that conditions or circumstances merit removal of the suspension. In suspending admissions under this subsection, the Secretary shall consider the following factors:

(1) The degree of sanctions necessary to ensure compliance with this section and rules adopted to implement this subsection, and

(2) The character and degree of impact of the conditions at the facility on the health or safety of its clients.

A facility may contest a suspension of admissions under this subsection in accordance with Chapter 150B of the General Statutes. In contesting the suspension of admissions, the facility must file a petition for a contested case within 20 days after the Department mails notice of suspension of admissions to the licensee."

Section 4. Article 2 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"*§ 122C-24.1. Penalties; remedies.*

(a) Violations Classified. -- The Department of Health and Human Services shall impose an administrative penalty in accordance with provisions of this Article on any facility licensed under this Article which is found to be in violation of Article 2 or 3 of this Chapter or applicable State and federal laws and regulations. Citations issued for violations shall be classified according to the nature of the violation as follows:

(1) "Type A Violation" means a violation by a facility of the regulations, standards, and requirements set forth in Article 2 or 3 of this Chapter or applicable State or federal laws and regulations governing the licensure or certification of a facility which results in death or serious physical harm, or results in substantial risk that death or serious physical harm will occur. Type A Violations shall be abated or eliminated immediately. The Department shall require an immediate plan of correction for each Type A Violation. The person making the findings shall do the following:

a. Orally and immediately inform the administrator of the facility of the specific findings and what must be done to correct them, and set a date by which the violation must be corrected;

b. Within 10 working days of the investigation, confirm in writing to the administrator the information provided orally under sub-subdivision a. of this subdivision; and

c. Provide a copy of the written confirmation required under sub-subdivision b. of this subdivision to the Department.

The Department shall impose a civil penalty in an amount not less than two hundred fifty dollars ($250.00) nor more than five thousand dollars ($5,000) for each Type A Violation in facilities or

programs that serve nine or fewer persons. The Department shall impose a civil penalty in an amount not less than five hundred dollars ($500.00) nor more than ten thousand dollars ($10,000) for each Type A Violation in facilities or programs that serve 10 or more persons.

(2) "Type B Violation" means a violation by a facility of the regulations, standards, and requirements set forth in Article 2 or 3 of this Chapter or applicable State or federal laws and regulations governing the licensure or certification of a facility which present a direct relationship to the health, safety, or welfare of any client or patient, but which does not result in substantial risk that death or serious physical harm will occur. The Department shall require a plan of correction for each Type B Violation and may require the facility to establish a specific plan of correction within a specific time period to address the violation.

(b) Penalties for Failure to Correct Violations Within Time Specified. --

(1) Where a facility has failed to correct a Type A Violation, the Department shall assess the facility a civil penalty in the amount of up to five hundred dollars ($500.00) for each day that the deficiency continues beyond the time specified in the plan of correction approved by the Department or its authorized representative. The Department or its authorized representative shall ensure that the violation has been corrected.

(2) Where a facility has failed to correct a Type B Violation within the time specified for correction by the Department or its authorized representative, the Department shall assess the facility a civil penalty in the amount of up to two hundred dollars ($200.00) for each day that the deficiency continues beyond the date specified for correction without just reason for the failure. The Department or its authorized representative shall ensure that the violation has been corrected.

(3) The Department shall impose a civil penalty which is treble the amount assessed under subdivision (1) of subsection (a) of this section when a facility under the same management, ownership, or control has received a citation and paid a penalty for violating the same specific provision of a statute or regulation for which it received a citation during the previous 12 months.

(c) Factors to Be Considered in Determining Amount of Initial Penalty. -- In determining the amount of the initial penalty to be imposed under this section, the Department shall consider the following factors:

(1) The gravity of the violation, including the fact that death or serious physical harm to a client or patient has resulted; the severity of the actual or potential harm, and the extent to

which the provisions of the applicable statutes or regulations were violated;

(2) The gravity of the violation, including the probability that death or serious physical harm to a client or patient will result; the severity of the potential harm, and the extent to which the provisions of the applicable statutes or regulations were violated;

(3) The gravity of the violation, including the probability that death or serious physical harm to a client or patient may result; the severity of the potential harm, and the extent to which the provisions of the applicable statutes or regulations were violated;

(4) The reasonable diligence exercised by the licensee to comply with G.S. 131E-256 and other applicable State and federal laws and regulations;

(5) Efforts by the licensee to correct violations;

(6) The number and type of previous violations committed by the licensee within the past 36 months;

(7) The amount of assessment necessary to ensure immediate and continued compliance; and

(8) The number of clients or patients put at risk by the violation.

(d) The facts found to support the factors in subsection (c) of this section shall be the basis in determining the amount of the penalty. The Department shall document the findings in written record and shall make the written record available to all affected parties including:

(1) The licensee involved;

(2) The clients or patients affected; and

(3) The family members or guardians of the clients or patients affected.

(e) The Department shall impose a civil penalty on any facility which refuses to allow an authorized representative of the Department to inspect the premises and records of the facility.

(f) Any facility wishing to contest a penalty shall be entitled to an administrative hearing as provided in Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails a notice of penalty to a licensee. At least the following specific issues shall be addressed at the administrative hearing:

(1) The reasonableness of the amount of any civil penalty assessed, and

(2) The degree to which each factor has been evaluated pursuant to subsection (c) of this section to be considered in determining the amount of an initial penalty.

If a civil penalty is found to be unreasonable or if the evaluation of each factor is found to be incomplete, the hearing officer may recommend that the penalty be adjusted accordingly.

(g) Any penalty imposed by the Department of Health and Human Services under this section shall commence on the day the violation began.

(h) The Secretary may bring a civil action in the superior court of the county wherein the violation occurred to recover the amount of the administrative penalty whenever a facility:

(1) Which has not requested an administrative hearing fails to pay the penalty within 60 days after being notified of the penalty, or

(2) Which has requested an administrative hearing fails to pay the penalty within 60 days after receipt of a written copy of the decision as provided in G.S. 150B-36.

(i) In lieu of assessing an administrative penalty, the Secretary may order a facility to provide staff training if:

(1) The penalty would be for the facility's only violation within a 12-month period preceding the current violation and while the facility is under the same management; and

(2) The training is:

a. Specific to the violation;

b. Approved by the Department of Health and Human Services; and

c. Taught by someone approved by the Department and other than the provider.

(j) The clear proceeds of civil penalties provided for in this section shall be remitted to the State Treasurer for deposit in accordance with State law.

(k) In considering renewal of a license, the Department shall not renew a license if outstanding fines and penalties imposed by the Department against the facility or program have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration for nonrenewal under this subsection."

Section 5. G.S. 122C-26 reads as rewritten:

"§ *122C-26. Powers of the Commission.*

In addition to other powers and duties, the Commission shall exercise the following powers and duties:

(1) Adopt, amend, and repeal rules consistent with the laws of this State and the laws and regulations of the federal government to implement the provisions and purposes of this Article;

(2) Issue declaratory rulings needed to implement the provisions and purposes of this Article;

(3) Adopt rules governing appeals of decisions to approve or deny licensure under this Article; ~~and~~

(4) Adopt rules for the waiver of rules adopted under this ~~Article.~~ Article; and

(5) Adopt rules applicable to facilities licensed under this Article:

a. Establishing personnel requirements of staff employed in facilities;

b. Establishing qualifications of facility administrators or directors;

c. Establishing requirements for death reporting including confidentiality provisions related to death reporting; and

d. Establishing requirements for patient advocates."

Section 6. Notwithstanding G.S. 150B-21.1(a), the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall adopt temporary rules to implement G.S. 122C-26(5).

Section 7. Sections 1 through 4 of this act become effective October 1, 2000. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2000.

Became law upon approval of the Governor at 1:34 p.m. on the 30th day of June, 2000.

H.B. 1560 **SESSION LAW 2000-56**

AN ACT TO MAKE MODIFICATIONS TO THE WILLIAM S. LEE ACT AND TO RELATED ECONOMIC DEVELOPMENT LAWS.

The General Assembly of North Carolina enacts:

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PART I. APPLICATION FEE EXEMPTIONS

Section 1.(a) G.S. 105-129.6(a1) reads as rewritten:

"(a1) Fee. -- When filing an application for certification under this section, the taxpayer must pay the Department of Commerce a fee of five hundred dollars ($500.00) for each credit the taxpayer intends to claim with respect to a location that is in an enterprise tier three, four, or five area, subject to a maximum fee of one thousand five hundred dollars ($1,500) per taxpayer per taxable year. This fee does not apply to any credit the taxpayer intends to claim with respect to a location that is in a development zone as defined in G.S. 105-129.3A. If the taxpayer applies for certification for a credit that relates to locations in

more than one enterprise tier area, the fee is based on the highest-numbered enterprise tier area.

The Secretary of Commerce shall retain one-fourth of the proceeds of the fee imposed in this section for the costs of administering this section. The Secretary of Commerce shall credit the remaining proceeds of the fee imposed in this section to the Department of Revenue for the costs of administering and auditing the credits allowed in this Article. The proceeds of the fee are receipts of the Department to which they are credited."

Section 1.(b) G.S. 105-129.13(e) reads as rewritten:

"(e) Application. -- To be eligible for the tax credit provided in this section, in addition to the application required under G.S. 105-129.6, the taxpayer must file an application for the credit with the Secretary of Revenue on or before April 15 of the year following the calendar year in which the contribution was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the contribution was made. An application is effective for the year in which it is timely filed. The application must be on a form prescribed by the Secretary and must include any supporting documentation that the Secretary may require. If a contribution for which a credit is applied for was of property rather than cash, the taxpayer must include with the application a certified appraisal of the value of the property contributed. There is no fee for an application under this section."

PART II. EXTEND CREDIT CARRYFORWARDS

Section 2. G.S. 105-129.5 reads as rewritten:

"§ *105-129.5. (Repealed effective January 1, 2006) Tax election; ~~cap.~~ cap; carryforwards.*

(a) Tax Election. -- The credits provided in this Article are allowed against the franchise tax levied in Article 3 of this Chapter, ~~and~~ the income taxes levied in Article 4 of this Chapter, and the gross premiums tax levied in Article 8B of this Chapter. The taxpayer may divide the technology commercialization credit allowed in G.S. 105-129.9A between the taxes against which it is allowed. The taxpayer shall elect the percentage of the credit that will be taken against each tax when filing the return on which the credit is first taken. This election is binding. The percentage of the credit elected to be taken against each tax may be carried forward only against the same tax.

The taxpayer must take any other credit allowed in this Article against only one of the taxes against which it is allowed. The taxpayer shall elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax.

(b) Cap. -- The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the

taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year.

(c) Carryforward. -- Any unused portion of a credit with respect to a large investment or with respect to the technology commercialization credit allowed in G.S. 105-129.9A may be carried forward for the succeeding 20 years. Any unused portion of a credit may be carried forward for the succeeding 10 years if the Secretary of Commerce certifies when an application for the credit is first made that the taxpayer will purchase or lease, and place in service in connection with the eligible business within a two-year period, at least fifty million dollars ($50,000,000) worth of one or more of the following: real property, machinery and equipment, or central office or aircraft facility property. If the taxpayer fails to make the level of investment certified within this two-year period, the taxpayer forfeits this enhanced carryforward period. Any unused portion of any other credit may be carried forward for the succeeding five years."

PART III. REQUIRE WAGE STANDARD FOR GRANTS

Section 3.(a) Section 16.2 of S.L. 1999-237 reads as rewritten:

"**INDUSTRIAL RECRUITMENT COMPETITIVE FUND**

Section 16.2.(a) Funds appropriated in this act to the Department of Commerce for the Industrial Recruitment Competitive Fund shall be used to continue the Fund. The purpose of the Fund is to provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina. Monies allocated from the Fund shall be used for the following purposes:

(1) Installation or purchase of equipment;

(2) Structural repairs, improvements, or renovations of existing buildings to be used for expansion; and

(3) Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment for existing buildings.

Monies may also be used for construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment to serve new or proposed industrial buildings used for manufacturing and industrial operations. The Governor shall adopt guidelines and procedures for the commitment of monies from the Fund. Monies from the Fund may be allocated only to projects that meet the wage standard set out in G.S. 105-129.4(b).

Section 16.2.(b) The Department of Commerce shall report on or before October 1, 1999, and quarterly thereafter to the Joint Legislative Commission on Governmental Operations and to the Fiscal

Research Division on the commitment, allocation, and use of funds allocated from the Industrial Recruitment Competitive Fund."

Section 3.(b) G.S. 143B-437.01(a) is amended by adding a new subdivision to read:

"(6) The funds shall not be used for any nonmanufacturing project that does not meet the wage standard set out in G.S. 105-129.4(b)."

PART IV. PROHIBIT FUNDING FOR DEFAULTING GRANTEES

Section 4. Part 1 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"*§ 143B-431.2. Department of Commerce - limitation on grants and loans.*

The Department of Commerce may not make a loan nor award a grant to any individual, organization, or governmental unit if that individual, organization, or governmental unit is currently in default on any loan made by the Department of Commerce."

PART V. AIRCRAFT MAINTENANCE FACILITY CREDIT

Section 5.(a) G.S. 105-129.2(2) reads as rewritten:

"(2) Central ~~administrative office.~~ office or aircraft facility. -- ~~Either~~ Any of the following:

a. A corporate, subsidiary, or regional managing office, as defined by NAICS.

b. An auxiliary subdivision of an interstate passenger air carrier engaged primarily in centralized training for the carrier at its hub. ~~For the purpose of this definition, the terms 'interstate passenger air carrier' and 'hub' have the meanings provided in G.S. 105-164.3.~~

c. An auxiliary subdivision of an interstate passenger air carrier engaged primarily in aircraft maintenance and repair services or aircraft rebuilding as defined by NAICS."

Section 5.(b) G.S. 105-129.2 is amended by adding two new subdivisions to read:

"(8) Hub. -- Defined in G.S. 105-164.3.

(8a) Interstate passenger air carrier. -- Defined in G.S. 105-164.3."

Section 5.(c) G.S. 105-129.4(a) through (b1), as amended by Section 11 of this act, read as rewritten:

"*§ 105-129.4. (Repealed effective January 1, 2006) Eligibility; forfeiture.*

(a) Type of Business. -- A taxpayer is eligible for a credit allowed by G.S. 105-129.12 if the real property for which the credit is claimed is used for a central ~~administrative~~ office or aircraft facility that creates at least 40 new jobs. A taxpayer is eligible for the other credits allowed by this Article if the taxpayer engages in one of the following types of businesses and the jobs with respect to which a credit is claimed are created in that business, the machinery and

equipment with respect to which a credit is claimed are used in that business, and the research and development for which a credit is claimed are carried out as part of that business:

(1) Air courier services.
(2) Central ~~administrative~~ office or aircraft facility that creates at least 40 new jobs.
(2a) Customer service center located in an enterprise tier one or two area.
(3) Data processing.
(3a) Electronic mail order house that creates at least 250 new jobs and is located in an enterprise tier one or two area.
(4) Manufacturing.
(5) Warehousing.
(6) Wholesale trade.

(a1) New Jobs Defined. -- A central ~~administrative~~ office or aircraft facility creates at least 40 new jobs if the taxpayer hires at least 40 additional full-time employees to fill new positions at the office either in the year the taxpayer first uses the property as a central ~~administrative~~ office or aircraft facility or in the preceding 24 months while using temporary space for the central ~~administrative~~ office or aircraft facility functions during completion of the ~~administrative~~ central office or aircraft facility property. An electronic mail order house creates at least 250 new jobs if the taxpayer hires at least 250 additional full-time employees to fill new positions at the house in the two-year period ending on the last day of the taxable year the taxpayer first claims a credit under this Article. Jobs transferred from one area in the State to another area in the State are not considered new jobs for purposes of this subsection.

(a2) Expiration. -- If, during the period that installments of a credit under this Article accrue, the taxpayer is no longer engaged in one of the types of business described in subsection (a) of this section, the credit expires and the taxpayer may not take any remaining installments of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

(b) Wage Standard. -- A taxpayer is eligible for the credit for creating jobs or the credit for worker training if the jobs for which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the credit for investing in machinery and equipment, the credit for research and development, or the credit for investing in real property for a central ~~administrative~~ office or aircraft facility if the jobs at the location with respect to which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average weekly wage that is at least equal to the applicable percentage times the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available.

The applicable percentage for jobs located in an enterprise tier one area is one hundred percent (100%). The applicable percentage for all other jobs is one hundred ten percent (110%). The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State.

(b1) Large Investment. -- A taxpayer who is otherwise eligible for a tax credit under this Article becomes eligible for the large investment enhancements provided for credits under this Article if the Secretary of Commerce certifies that the taxpayer will purchase or lease, and place in service in connection with the eligible business within a two-year period, at least one hundred fifty million dollars ($150,000,000) worth of one or more of the following: real property, machinery and equipment, or central ~~administrative~~ office or aircraft facility property. If the taxpayer fails to make the level of investment certified within this two-year period, the taxpayer forfeits the large investment enhancements as provided in subsection (d) of this section.

. . . ."

Section 5.(d) G.S. 105-129.7(b) reads as rewritten:

"(b) Each taxpayer must provide with the tax return qualifying information for each credit claimed under this Article for the first taxable year the credit is claimed and for every year in which a subsequent installment or a carryforward of that credit is claimed. The qualifying information must be in the form prescribed by the Secretary, must cover each taxable year beginning with the first taxable year the credit is claimed, and must be signed and affirmed by the individual who signs the taxpayer's tax return. The information required by this subsection is information demonstrating that the taxpayer has met the conditions for qualifying for an initial credit and any installments and carryforwards, and includes the following:

(1) The physical location of the jobs and investment with respect to which the credit is claimed, including the enterprise tier designation of the location and whether it is in a development zone. In addition, for each individual who fills a job at a location with respect to which a credit is claimed, the place where the individual resided before taking the job, including any enterprise tier or development zone designation of that place.

(2) The type of business with respect to which the credit is claimed, as required by G.S. 105-129.4(a), and wage information described in G.S. 105-129.4(b).

(3) If the credit is claimed with respect to a large investment certified under G.S. ~~105-129.4(b1),~~ 105-129.4(b1) or is a credit with a carryforward period of 10 years under G.S. 105-129.5(c), the amount of the investment requirement under ~~that subsection~~ those subsections that has been met to date.

(4) Qualifying information required for the credit for creating jobs allowed under G.S. 105-129.8, the credit for investing in machinery and equipment allowed under G.S. 105-129.9, the credit for worker training allowed under G.S. 105-129.11, the credit for investing in central ~~administrative~~ office or aircraft facility property allowed in G.S. 105-129.12, and any other credits allowed under this Article."

Section 5.(e) G.S. 105-129.12 reads as rewritten:

"*§ 105-129.12. (Repealed effective January 1, 2006) Credit for investing in central ~~administrative~~ office or aircraft facility property.*

(a) Credit. -- If a taxpayer that has purchased or leased real property in this State begins to use the property as a central ~~administrative~~ office or aircraft facility during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the eligible investment amount. The eligible investment amount is the lesser of (i) the cost of the property and (ii) the amount by which the cost of all of the property the taxpayer is using in this State as central ~~administrative offices~~ office or aircraft facilities on the last day of the taxable year exceeds the cost of all of the property the taxpayer was using in this State as central ~~administrative offices~~ office or aircraft facilities on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer was using the most property in this State as central ~~administrative offices.~~ office or aircraft facilities. In the case of property that is leased, the cost of the property is not determined as provided in G.S. 105-129.2 but is considered to be the taxpayer's lease payments over a seven-year period, plus any expenditures made by the taxpayer to improve the property before it is used as the taxpayer's central ~~administrative~~ office or aircraft facility if the expenditures are not reimbursed or credited by the lessor. The maximum credit allowed a taxpayer under this section for property used as a central ~~administrative~~ office or aircraft facility is five hundred thousand dollars ($500,000). The entire credit may not be taken for the taxable year in which the property is first used as a central ~~administrative~~ office or aircraft facility but shall be taken in equal installments over the seven years following the taxable year in which the property is first used as a central ~~administrative office.~~ office or aircraft facility. The basis in any real property for which a credit is allowed under this section shall be reduced by the amount of credit allowable.

(b) Mixed Use Property. -- If the taxpayer uses only part of the property as the taxpayer's central ~~administrative office,~~ office or aircraft facility, the amount of the credit allowed under this section is reduced by multiplying it by a fraction the numerator of which is the square footage of the property used as the taxpayer's central ~~administrative~~ office or aircraft facility and the denominator of which is the total square footage of the property.

(c) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the property with respect to which the credit was claimed is no longer used as a central ~~administrative office,~~ office or aircraft facility, the credit expires and the taxpayer may not take any remaining installment of the credit. If, in one of the seven years in which the installment of a credit accrues, part of the property with respect to which the credit was claimed is no longer used as a central ~~administrative office,~~ office or aircraft facility, the remaining installments of the credit shall be reduced by multiplying it by the fraction described in subsection (b) of this section. If, in one of the seven years in which the installment of a credit accrues, the total number of employees the taxpayer employs at all of its central ~~administrative offices~~ office or aircraft facilities in this State drops by 40 or more, the credit expires and the taxpayer may not take any remaining installment of the credit.

In each of these cases, the taxpayer may nonetheless take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5."

PART VI. EMPLOYEE BUYOUT INCENTIVE

Section 6. G.S. 105-129.4(e) reads as rewritten:

"(e) Change in Ownership of Business. -- The sale, merger, consolidation, conversion, acquisition, or bankruptcy of a business, or any transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to credits for which the predecessor was not eligible under this Article. A successor business may, however, take any installment of or carried-over portion of a credit that its predecessor could have taken if it had a tax liability. The acquisition of a business is a new investment that creates new eligibility in the acquiring taxpayer under this Article if any of the following conditions are met:

(1) The business closed before it was acquired.

(2) The business was required to file a notice of plant closing or mass layoff under the federal Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2102, before it was acquired.

(3) The business was acquired by its employees ~~through~~ directly or indirectly through an acquisition company under an employee stock option transaction or another similar mechanism. For the purpose of this subdivision, "acquired" means that as part of the initial purchase of a business by

the employees, the purchase included an agreement for the employees through the employee stock option transaction or another similar mechanism to obtain one of the following:

a. Ownership of more than fifty percent (50%) of the business.

b. Ownership of not less than forty percent (40%) of the business within seven years if the business has tangible assets with a net book value in excess of one hundred million dollars ($100,000,000) and has the majority of its operations located in an enterprise tier one, two, or three area."

PART VII. LOW-INCOME HOUSING CREDIT CHANGES

Section 7. G.S. 105-129.16B(a), (c), and (d) read as rewritten:

"(a) Credit. -- A taxpayer that is allowed for the taxable year a federal income tax credit for low-income housing under section 42 of the Code with respect to a qualified North Carolina low-income building, is allowed a credit under this Article equal to a percentage of the total federal credit allowed with respect to that building. For the purposes of this section, the total federal credit allowed is the total allowed during the 10-year federal credit period plus the disallowed first-year credit allowed in the 11th year. For the purposes of this section, the total federal credit is calculated based on qualified basis as of the end of the first year of the credit period and is not recalculated to reflect subsequent increases in qualified basis. For buildings that meet condition (c)(1) or (c)(1a) of this section, the credit percentage is seventy-five percent (75%). For other buildings, the credit percentage is twenty-five percent (25%).

. . .

(c) Definitions. -- The definitions in section 42 of the Code apply in this section. In addition, as used in this section the term "qualified North Carolina low-income building" means a qualified low-income building that was allocated a federal credit under section 42(h)(1) of the Code, was not allowed a federal credit under section 42(h)(4) of the Code, and meets any of the following conditions:

(1) It is located in an area that, at the time the federal credit is allocated to the building, is a tier one or two enterprise area, as defined in G.S. 105-129.3.

(1a) It is located in a county that, at the time the federal credit is allocated to the building, has been designated as having sustained severe or moderate damage from a hurricane or a hurricane-related disaster, according to the Federal Emergency Management Agency impact map, revised on September 25, 1999. Those counties are Bertie, Beaufort, Bladen, Brunswick, Carteret, Columbus, Craven, Dare, Duplin, Edgecombe, Greene, Halifax, Hertford, Jones, Lenoir, Martin, Nash, New Hanover, Northampton,

Onslow, Pasquotank, Pender, Pitt, Washington, Wayne, and Wilson Counties.

(2) It is located in an area that, at the time the federal credit is allocated to the building, is a tier three or four enterprise area, and forty percent (40%) of its residential units are both rent-restricted and occupied by individuals whose income is fifty percent (50%) or less of area median gross income as defined in the Code.

(3) It is located in an area that, at the time the federal credit is allocated to the building, is a tier five enterprise area, and forty percent (40%) of its residential units are both rent-restricted and occupied by individuals whose income is thirty-five percent (35%) or less of area median gross income as defined in the Code.

(d) Expiration. -- If, in one of the five years in which an installment of the credit under this section accrues, the taxpayer is no longer eligible for the corresponding federal credit with respect to the same qualified North Carolina low-income building, then the credit under this section expires and the taxpayer may not take any remaining installment of the credit. If, in one of the five years in which an installment of the credit under this section accrues, the building no longer qualifies as a low-income building under subdivision (2) or (3) of subsection (c) of this section because less than forty percent (40%) of its residential units are both rent-restricted and occupied by individuals who meet the income requirements, then the credit under this section expires and the taxpayer may not take any remaining installments of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17."

PART VIII. MODIFY CREDIT AND EXPIRATION PROVISIONS

Section 8.(a) G.S. 105-129.8(a) reads as rewritten:

"(a) Credit. -- A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more ~~employees for at least 40 weeks during the taxable year,~~ full-time employees, and hires an additional full-time employee during that year to fill a position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone, the amount of the credit is increased by four thousand dollars ($4,000) per job.

Area Enterprise Tier	Amount of Credit
Tier One	$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area. The credit may not be taken in the taxable year in which the additional employee is hired. Instead, the credit shall be taken in equal installments over the four years following the taxable year in which the additional employee was hired and shall be conditioned on the continued employment by the taxpayer of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit.

If, in one of the four years in which the installment of a credit accrues, the number of the taxpayer's full-time employees falls below the number of full-time employees the taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

Jobs transferred from one area in the State to another area in the State shall not be considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the position filled by the employee is moved to an area in a higher- or lower-numbered enterprise tier, or is moved from a development zone to an area that is not a development zone, the remaining installments of the credit shall be calculated as if the position had been created initially in the area to which it was moved."

Section 8.(b) G.S. 105-129.9 reads as rewritten:

"*§ 105-129.9. Credit for investing in machinery and equipment.*

(a) General Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places them in service in this State during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible investment amount over the applicable threshold. Machinery and equipment are eligible if they are capitalized by the taxpayer for tax purposes under the Code and not leased to another party. In addition, in the case of a large investment, machinery and equipment that are not capitalized by the taxpayer are eligible if the taxpayer leases them from another party. The credit may not be taken for the taxable year in which the machinery and equipment are placed in service but shall be taken in equal installments over the seven years following the taxable year in which they are placed in service.

(a1) Technology Commercialization Credit. -- If a taxpayer is eligible for the credit allowed in this section with respect to eligible machinery and equipment and qualifies for one of the credits allowed in G.S. 105-129.9A with respect to the same machinery and equipment, the taxpayer may choose to take one of those credits instead of the credit allowed in this section. A taxpayer may take the credit allowed in this section or one of the credits allowed in G.S. 105-129.9A during a taxable year with respect to eligible machinery and equipment, but may not take more than one of these credits with respect to the same machinery and equipment.

(b) Eligible Investment Amount. -- The eligible investment amount is the lesser of (i) the cost of the eligible machinery and equipment and (ii) the amount by which the cost of all of the taxpayer's eligible machinery and equipment that are in service in this State on the last day of the taxable year exceeds the cost of all of the taxpayer's eligible machinery and equipment that were in service in this State on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer had the most eligible machinery and equipment in service in this State. A taxpayer that claims a credit under this section must include with the application for certification required under G.S. 105-129.6(a) specific documentation supporting the taxpayer's calculation of the eligible investment amount under this subsection.

(c) Threshold. -- The applicable threshold is the appropriate amount set out in the following table based on the enterprise tier of the area where the eligible machinery and equipment are placed in service during the taxable year. If the taxpayer places eligible machinery and equipment in service in more than one area during the taxable year, the threshold applies separately to the eligible machinery and equipment placed in service in each area. If the taxpayer places eligible machinery and equipment in service in an area over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

(d) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the ~~credit.~~ credit for that machinery and equipment unless the cost of that machinery and equipment is offset in the same taxable year by the taxpayer's new investment in eligible machinery and equipment placed in service in the same enterprise tier, as provided in this subsection. If, during the taxable year the taxpayer disposed of the machinery and equipment for which installments remain, there has been a net reduction in the cost of all the taxpayer's eligible machinery and equipment that are in service in the same enterprise tier as the machinery and equipment that were disposed of, and the amount of this reduction is greater than twenty percent (20%) of the cost of the machinery and equipment that were disposed of, then the taxpayer forfeits the remaining installments of the credit for the machinery and equipment that were disposed of. If the amount of the net reduction is equal to twenty percent (20%) or less of the cost of the machinery and equipment that were disposed of,

or if there is no net reduction, then the taxpayer does not forfeit the remaining installments of the expired credit. In determining the amount of any net reduction during the taxable year, the cost of machinery and equipment the taxpayer placed in service during the taxable year and for which the taxpayer claims a credit under Article 3B of this Chapter may not be included in the cost of all the taxpayer's eligible machinery and equipment that are in service. If in a single taxable year machinery and equipment with respect to two or more credits in the same tier are disposed of, the net reduction in the cost of all the taxpayer's eligible machinery and equipment that are in service in the same tier is compared to the total cost of all the machinery and equipment for which credits expired in order to determine whether the remaining installments of the credits are forfeited.

The ~~taxpayer may, however, take~~ expiration of a credit does not prevent the taxpayer from taking the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved.

(e) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the credit for which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered enterprise tier or has lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the two-year period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the two-year period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection."

Section 8.(c) G.S. 105-129.4 is amended by adding a new subsection to read:

"(a2) Expiration. -- If, during the period that installments of a credit under this Article accrue, the taxpayer is no longer engaged in one of the types of business described in subsection (a) of this section, the credit expires and the taxpayer may not take any remaining installments of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5."

PART IX. TECHNICAL CORRECTION

Section 9. G.S. 105-164.14(i) reads as rewritten:

"(i) **(Effective for taxes paid on or after May 1, 1999 until January 1, 2008)** Nonprofit Insurance Companies. -- Eligible nonprofit insurance companies are allowed an annual refund of sales and use taxes paid under this Article as provided in this subsection.

(1) **(Effective until January 1, 2004)** Refunds. -- An eligible nonprofit insurance company is allowed an annual refund of sales and use taxes paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of its real property, and on computer systems hardware and software it capitalizes for tax purposes under the Code. Liability incurred indirectly by the company for sales and use taxes on these items is considered tax paid by the company. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the insurance company's fiscal year. Refunds applied for after the due date are barred.

(1) **(Effective January 1, 2004 until January 1, 2008)** Refunds. -- An eligible nonprofit insurance company is allowed an annual refund of sales and use taxes paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of its real property. Liability incurred indirectly by the company for sales and use taxes on these items is considered tax paid by the company. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the insurance company's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. -- An insurance company is eligible for the refund provided in this subsection if it meets all of the following conditions:

a. It is a nonprofit corporation.

b. It is operated for the exclusive purpose of providing insurance and annuity contracts to or for the benefit of (i) organizations exempt from federal income tax under section 501(c)(3) of the ~~Code,~~ Code and their employees or (ii) public institutions and their employees.

c. The Secretary of Commerce has certified that the insurance company will invest at least twenty million dollars ($20,000,000) in constructing a facility in this State for the conduct of its operations.

(3) Forfeiture. -- If an eligible insurance company does not make the required minimum investment within five years after its first refund under this subsection, it loses its eligibility and forfeits all refunds already received under this subsection. Upon forfeiture, the company is liable for tax under this Article equal to the amount of all past taxes refunded under this subsection, plus interest at the rate established in G.S. 105-241.1(i), computed from the date each refund was issued. The tax and interest are due 30 days after the date of the forfeiture. A company that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236."

PART X. EFFECTIVE DATES

Section 10.(a) Application Fee Exemptions. -- Section 1 of this act becomes effective January 1, 2001, and applies to applications made on or after that date.

Section 10.(b) Extend Credit Carryforwards. -- Section 2 of this act is effective for taxable years beginning on or after January 1, 2000.

Section 10.(c) Require Wage Standard for Grants and Prohibit Funding for Defaulting Grantees. -- Sections 3 and 4 of this act become effective July 1, 2000, and apply to funds appropriated, grants awarded, or loans made on or after that date.

Section 10.(d) Aircraft Maintenance Facility Credit. -- Section 5 of this act is effective for taxable years beginning on or after January 1, 2001.

Section 10.(e) Employee Buyout Incentive. -- Section 6 of this act is effective May 1, 1999, and applies to acquisitions made on or after that date.

Section 10.(f) Low-Income Housing Credit Changes. -- G.S. 105-129.16B(d), as amended by Section 7 of this act, is effective for taxable years beginning on or after January 1, 2000. The remainder of Section 7 is effective for taxable years beginning on or after January 1, 2001, applies to buildings to which federal credits are allocated on or after January 1, 2001, and expires January 1, 2005.

Section 10.(g) Modify Credit and Expiration Provisions. -- Section 11 of this act is effective for taxable years beginning on or after January 1, 2000.

Section 10.(h) Technical Correction. -- Section 12 of this act becomes effective May 1, 1999, and applies to taxes paid on or after that date. Section 12 is repealed for taxes paid on or after January 1, 2008.

Section 10.(i) Remainder. -- The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2000.

Became law upon approval of the Governor at 1:34 p.m. on the 30th day of June, 2000.

S.B. 1081 **SESSION LAW 2000-57**

AN ACT TO PROVIDE ECONOMIC PARITY FOR THE HAULING OF AGGREGATE PRODUCTS FROM LIMITED AREAS OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118(c) is amended by adding a new subdivision to read:

"(14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the following conditions:

a. Is hauling aggregates from a distribution yard or a State-permitted production site within a North Carolina county contiguous to the North Carolina State border to a destination in an adjacent state as verified by a weight ticket in the driver's possession and available for inspection by enforcement personnel.

b. Does not operate on an interstate highway or posted bridge.

c. Does not exceed 69,850 pounds gross vehicle weight and 53,850 pounds per axle grouping for tri-axle vehicles. For purposes of this subsection, a tri-axle vehicle is a single unit vehicle with a three consecutive axle group on which the respective distance between any two consecutive axles of the group, measured longitudinally center to center to the nearest foot, does not exceed eight feet. For purposes of this subsection, the tolerance provisions of subsection (h) of this section do not apply.

d. All other enforcement provisions of this Article remain applicable."

Section 2. This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 28th day of June, 2000.

Became law upon approval of the Governor at 1:38 p.m. on the 30th day of June, 2000.

H.B. 973 **SESSION LAW 2000-58**

AN ACT TO MAKE CHANGES TO THE GENERAL STATUTES ALLOWING A SUPERIOR COURT JUDGE TO PERFORM MARRIAGE CEREMONIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 51-1 reads as rewritten:

"*§ 51-1. Requisites of marriage; solemnization.*

The consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, and in the presence of an ordained minister of any religious denomination, minister authorized by his church, superior court judge of this State or of another state, or of a magistrate, and the consequent declaration by such ~~minister~~ minister, judge, or officer that such persons are husband and wife, shall be a valid and sufficient marriage: Provided, that the rite of marriage among the Society of Friends, according to a form and custom peculiar to themselves, shall not be interfered with by the provisions of this Chapter: Provided further, that marriages solemnized and witnessed by a local spiritual assembly of the Baha'is, according to the usage of their religious community, shall be valid; provided further, marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation."

Section 2. This act is effective when it becomes law and expires on September 15, 2000.

In the General Assembly read three times and ratified this the 29th day of June, 2000.

Became law upon approval of the Governor at 1:39 p.m. on the 30th day of June, 2000.

S.B. 1263 **SESSION LAW 2000-59**

AN ACT TO PERMIT THE CITY OF CHARLOTTE TO USE WHEEL LOCKS TO ENFORCE PARKING ORDINANCES.

The General Assembly of North Carolina enacts:

Section 1. Chapter VI, Subchapter A, Article II of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws, is amended by adding a new section:

"Section 6.28. **Towing Penalties.** The Council may provide by ordinance that any vehicle that has been towed for a parking violation is to be held until the towing fee and penalties related to all outstanding parking tickets and penalties owed to the City are paid in full, or a bond is posted in the amount of the towing fee and all outstanding parking tickets and penalties. Payment of the towing fee and all outstanding parking tickets and penalties shall not constitute a waiver of a person's right to contest the towing or the outstanding parking tickets and penalties."

Section 2. Chapter VI, Subchapter A, Article II of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws, is amended by adding a new section:

"Section 6.29. **Wheel Locks Permitted.** The Council may provide by ordinance for the use of wheel locks on illegally parked vehicles

for which there are three or more outstanding, unpaid, and overdue parking tickets for a period of 90 days. The ordinance shall provide for notice or warning to be affixed to the vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars ($50.00), and charges for towing and storage. The City shall not be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle."

Section 3. If Senate Bill 1391 or House Bill 1667, 1999 Session, becomes law, then Section 6.11 of the City of Charlotte, as enacted by Senate Bill 1391 or House Bill 1667, reads as rewritten:

"Section 6.11. **Parking Regulations and Violations.** (a) The Council may provide by ordinance that each hour a vehicle remains illegally parked in an on-street parking space is a separate offense, and the violator may be given a ticket for each offense.

(b) The Council may provide by ordinance that any vehicle that has been towed for a parking violation is to be held until the towing fee ~~and any related parking tickets and penalties are paid in full, or a bond is posted in the amount of the towing fee and any related parking tickets and penalties. Payment of the towing fee and any related parking tickets and penalties or posting of a bond shall not constitute a waiver of a person's right to contest the towing or any related parking tickets and penalties.~~ and penalties related to all outstanding parking tickets and parking penalties owed to the City are paid in full, or a bond is posted in the amount of the towing fee and all outstanding parking tickets and parking penalties. Payment of the towing fee and all outstanding parking tickets and parking penalties shall not constitute a waiver of a person's right to contest the towing or the outstanding parking tickets and parking penalties.

(c) The Council may provide by ordinance for the use of wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets for a period of 90 days. The ordinance shall provide for notice or warning to be affixed to the vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars ($50.00), and charges for towing and storage. The City shall not be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1598 **SESSION LAW 2000-60**

AN ACT TO PROVIDE PROPER REPRESENTATION FROM THE TOWN OF OAK ISLAND ON THE BRUNSWICK COUNTY AIRPORT COMMISSION, TO EXPAND THE BURLINGTON-ALAMANCE AIRPORT AUTHORITY, AND ALLOWING THE TOWN COUNCIL OF THE TOWN OF OAK ISLAND TO SET HEIGHT LIMITS NORTH OF THE INTRACOASTAL WATERWAY IN ACCORDANCE WITH GENERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 411 of the 1961 Session Lawsa s rewritten by Chapter 385 of the 1991 Session Laws, reads as rewritten:

"Section 1. There is hereby created a board to be known as the Brunswick County Airport Commission whose membership shall consist of Southport, ~~Yaupon Beach, Long Beach,~~ Oak Island, and Brunswick County and which board is hereby constituted a body politic and corporate. The said board shall be comprised of seven members, four of whom shall be appointed by the Board of County Commissioners of Brunswick ~~County and one of whom shall be appointed by each member town,~~ County, two of whom shall be appointed by Oak Island, and one of whom shall be appointed by Southport, all of whom shall be experienced businessmen with no qualifications as to residence. The membership of said board shall be named as provided for in Chapter 63 of the General Statutes of North Carolina. The members of said board shall receive no compensation per diem or otherwise, but shall be allowed and paid actual expenses incurred in the transaction of business and at the instance of the said Commission. In the event that either the Aldermen of the City of Southport, ~~the Commissioners of the Town of Yaupon Beach, the Commissioners of the Town of Long Beach,~~ the Town Council of the Town of Oak Island, or the Brunswick County Commissioners do not deem it advisable or any one or two of said municipal bodies do not enter into an agreement to set up said Airport Commission as provided for under Chapter 63 of the General Statutes of North Carolina, then in such event the municipality or county desiring to create such a commission may do so having all powers herein conferred with the right and privilege of calling such commission in the name of the particular municipality and/or county government."

Section 1.1. Section 3 of Chapter 1019 of the 1987 Session Laws, as amended by Section 3 of Chapter 456 and Section 6.1 of Chapter 593, Session Laws of 1989, and Chapter 181 of the 1993 Session Laws, reads as rewritten:

"Sec. 3. This act applies to the Towns of Holden Beach, ~~Long Beach,~~ Oak Island, and Sunset Beach only, but as to the Town of Holden Beach, Section 1 of this act applies only to areas within the corporate limits of the Town as of June 26, 1989, as to the corporate limits of the Town of Oak Island located north of the Atlantic

Intracoastal Waterway (AIWW) the Town Council shall establish building height limits in accordance with general law rather than this act, and as to Sunset Beach, Section 1 of this act applies only to areas on the island."

Section 2. Section 2 of Chapter 814 of the 1969 Session Laws reads as rewritten:

"Sec. 2. The Airport Authority shall consist of ~~five (5)~~ seven members who shall be appointed to staggered terms of four years. ~~Two (2)~~ Three members shall be appointed by the City Council of Burlington, ~~two (2)~~ three members shall be appointed by Alamance County Commissioners and one ~~(1)~~ member shall be appointed by the City Council of the City of Burlington and Alamance County Commissioners in a joint meeting. All of the members shall be residents of the County of Alamance but need not be residents of the City of Burlington. The terms of the initial five ~~(5)~~ members of the Authority shall be as follows: the two members to be appointed by the City Council of the City of Burlington and the member to be appointed at the joint meeting of the boards shall be a term of four years, the two members appointed by the County Commissioners shall be a term of two years; thereafter, all terms shall be for four years. The terms of the two additional members shall be for four years, but the appointing authority may set the expiration date for the initial term at a shorter period if it is desired that the term expire at the same time as the terms of any then current members expire. Each of the members and their successors so appointed shall take and subscribe before the Clerk of the Superior Court of Alamance County, an oath of office and file same with the County Commissioners of Alamance County. Upon the occurrence of any vacancy on said Authority, said vacancy shall be filled within ~~sixty (60)~~ 60 days after notice thereof at a regular meeting of the governing body of the governmental unit which has a vacancy within its representation."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1648 **SESSION LAW 2000-61**

AN ACT AUTHORIZING THE CITY OF CHARLOTTE TO PURCHASE PUBLIC TRANSIT EQUIPMENT USING THE COMPETITIVE PROPOSAL METHOD OF PROCUREMENT.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Charlotte, being Session Law 2000-26, is amended by adding the following new section to Subchapter E of Chapter IX:

"Section 8.87. Transit Procurements. In addition to other authorized methods of procurement, the City of Charlotte may contract for the purchase, lease, or other acquisition of any apparatus,

supplies, materials, or equipment for public transit purposes using the competitive proposal method provided in G.S. 143-129(h)."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1670 **SESSION LAW 2000-62**

AN ACT TO AMEND THE CHARTER OF THE TOWN OF MARSHVILLE AND OTHER LAWS RELATING TO THE TOWN BY DELETING THROUGHOUT THE WORDS "BOARD OF ALDERMEN", "BOARD", AND "ALDERMAN" AND SUBSTITUTING, AS APPROPRIATE, THE WORDS "TOWN COUNCIL" AND "COUNCIL MEMBER".

The General Assembly of North Carolina enacts:

Section 1. Wherever in any provision of the Charter of the Town of Marshville, being Chapter 313 of the 1913 Private Laws, as amended, or in any general, local, public-local, special, or private act relating to the Town of Marshville the following "Board of Aldermen" or "Board" appear, the same shall be deleted, and the words "Town Council" shall be inserted.

Section 2. Wherever in any provision of the Charter of the Town of Marshville, being Chapter 313 of the 1913 Private Laws, as amended, or in any general, local, public-local, special, or private act relating to the Town of Marshville the word "Alderman" appears, the word shall be deleted, and the words "Council Member" shall be inserted.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1730 **SESSION LAW 2000-63**

AN ACT CONCERNING ANNEXATION AND EXTRATERRITORIAL ZONING IN THE VILLAGE OF SUGAR MOUNTAIN.

The General Assembly of North Carolina enacts:

Section 1. Chapter VI of the Charter of the Village of Sugar Mountain, being Chapter 395 of the 1985 Session Laws, is repealed.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1753 **SESSION LAW 2000-64**

AN ACT TO REDUCE THE PISTOL PERMIT FEE IN MARTIN COUNTY FROM TWENTY DOLLARS TO FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. S.L. 1993-205, as amended by S.L. 1999-285, is repealed.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1767 **SESSION LAW 2000-65**

AN ACT TO EXPAND MECKLENBURG COUNTY'S AUTHORITY TO SELL COUNTY-OWNED REAL ESTATE.

The General Assembly of North Carolina enacts:

Section 1. G. S. 160A-266 is amended to add a new subsection to read:

"(d) When the board of commissioners determines that a sale or disposition of property will advance or further any county or municipality-adopted economic development, transportation, urban revitalization, community development, or land-use plan or policy, the county may, in addition to other authorized means sell, exchange, or transfer the fee or any lesser interest in real property, either by public sale or by negotiated private sale. The county may attach to the transfer and to the interest conveyed such covenants, conditions, or restrictions (or a combination of them) the county deems necessary to further such adopted policies or plans. The consideration received by the county, if any, for such conveyance may reflect the restricted use of the property resulting from such covenants, conditions, or restrictions. An interest in property pursuant to this subsection may be conveyed only pursuant to resolution of the board of commissioners authorizing the conveyance. Notice of the proposed transaction shall be given at least 10 days prior to adoption of the resolution by publication in a newspaper of general circulation, generally describing:

(1) The property involved;

(2) The nature of the interest to be conveyed; and

(3) All of the material terms of the proposed transaction, including any covenants, conditions, or restrictions which may be applicable.

The notice shall give the time and place of the board of commissioners' meeting where the proposed transaction will be considered and shall announce the board's intention to authorize the proposed transaction."

Section 2. This act shall apply to Mecklenburg County only and only with respect to the following parcels of land, all of which are owned by Mecklenburg County as of the date of adoption of this act and all of which have frontage on North College Street: Mecklenburg County Tax Parcels (as of January 1, 2000) 080-031-01, 080-032-04, 080-032-05, 080-041-01, and 080-041-02.

Section 3. This act is effective when it becomes law, but expires the earlier of June 30, 2002, or the date on which all property described in Section 2 of this act is sold, exchanged, or transferred.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1784 **SESSION LAW 2000-66**

AN ACT TO CLARIFY THE BOUNDARIES OF THE SWIFT CREEK AREA SUBJECT TO AN ADVISORY REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of S.L. 1998-192 reads as rewritten:

"Section 4. (a) The qualified resident voters of the area described in ~~the Swift Creek Management Plan~~ the area described in subsection (a1) of this section shall be given the opportunity to vote in a nonbinding advisory referendum on incorporation of the Swift Creek area as a municipality. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Incorporation of the Swift Creek area as a municipality, along with the payment of additional property taxes which the proposed municipality may levy."

(a1) The area subject to the referendum called by this section is as follows:

The area in Wake County beginning at the intersection of Lake Wheeler Road and Ten-Ten Road, being an area bounded on the south by Ten-Ten Road; on the east by Lake Wheeler Road; on the north by the boundary of the extraterritorial jurisdiction of the City of Raleigh which consists of Little Swift Creek, also known as Steep Hill Creek, from where it intersects Lake Wheeler Road upstream to where it intersects Tryon Road, then west along Tryon Road to the intersection of Tryon Road and Campbell Road; and, on the west by the boundary of the extraterritorial jurisdiction of the Town of Cary along Campbell Road to the intersection of that boundary line and Holly Springs Road, then along Holly Springs Road to the intersection of Holly Springs Road and Ten-Ten Road, the point and place of beginning.

(b) Registration for the election shall be conducted in accordance with G.S. 163-288.2. The referendum shall be conducted on November 7, 2000."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law on the date it was ratified.

H.B. 1840 **SESSION LAW 2000-67**

AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 1999 AND TO MAKE OTHER CHANGES IN THE BUDGET OPERATION OF THE STATE.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

Section 1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the Executive Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

TITLE OF ACT

Section 1.1. This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2000."

PART II. CURRENT OPERATIONS/GENERAL FUND

Section 2. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the fiscal year ending June 30, 2001, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2000-01 fiscal year.

Current Operations - General Fund	2000-01
General Assembly	$ (272,500)
Judicial Department	14,289,072
Office of the Governor	
01. Office of State Budget and Management	200,000
02. Office of State Budget and Management Special Appropriations	420,000
Department of Secretary of State	2,854,671

Department of State Auditor	28,054
Department of State Treasurer	8,181,082
Department of Public Instruction	(6,480,392)
Department of Justice	(238,316)
Department of Administration	627,428
Office of the Governor - Housing Finance	3,000,000
Department of Agriculture and Consumer Services	2,176,618
Department of Labor	(300,000)
Department of Insurance	428,597
Department of Environment and Natural Resources	(1,670,030)
Office of Administrative Hearings	(64,368)
Rules Review Commission	48,000
Department of Health and Human Services	
01. Office of the Secretary	(17,595,000)
02. Division of Aging	250,000
03. Division of Child Development	(4,600,000)
04. Division of Services for the Deaf and Hard of Hearing	1,251,250
05. Division of Social Services	5,450,000
06. Division of Health Services	(3,329,871)
07. Division of Medical Assistance	(107,176,129)
08. Division of Services for the Blind	803,750
09. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	22,758,474
10. Division of Facility Services	1,649,000
11. Division of Vocational Rehabilitation Services	5,358,672
Total Department of Health and Human Services	(95,179,854)
Department of Correction	(13,685,942)

Department of Commerce	
01. Commerce	2,882,671
02. Biotechnology Center	1,000,000
03. Rural Economic Development Center	1,650,000
04. State Aid to non-State Entities	4,700,000
Department of Revenue	(497,071)
Department of Cultural Resources	3,107,142
Department of Crime Control and Public Safety	(568,000)
Office of the State Controller	(115,000)
University of North Carolina - Board of Governors	
01. General Administration	(473,190)
02. University Institutional Programs	39,762,236
03. Related Educational Programs	3,257,457
04. University of North Carolina at Chapel Hill	
a. Health Affairs	(385,467)
05. North Carolina State University at Raleigh	
a. Academic Affairs	(493,514)
06. University of North Carolina at Wilmington	(140,039)
07. Western Carolina University	(159,178)
08. Winston-Salem State University	(69,448)
09. North Carolina Central University	10,646
Total University of North Carolina - Board of Governors	41,309,503
Community Colleges System Office	17,806,602
Debt Service	(52,200,000)
Office of Juvenile Justice	966,726
Reserve for Compensation Increase	456,750,000
Reserve for Compensation Bonus	83,500,000
Premium Reserve (Retirees)	(50,000,000)

Retirement Contribution Adjustment	(191,294,000)
Premium Reserve (Employees)	(32,700,000)
State Employee Reserve	48,000,000
Death Benefit Contribution Adjustment	(10,864,400)
Statewide Reserve for Salary Increases	(11,000,000)
Reserve for Repairs and Renovations	100,000,000
Clean Water Management Trust Fund	30,000,000
Savings Reserve	120,000,000
GRAND TOTAL CURRENT OPERATIONS -- GENERAL FUND	$ 476,796,293

PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

Section 3. Appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the fiscal year ending June 30, 2001, according to the schedule that follows. Amounts set out in brackets are reductions from Highway Fund appropriations for the 2000-2001 fiscal year.

Current Operations - Highway Fund	2000-2001
Department of Transportation	
01. Administration	$ 1,214,914
02. Operations -	
03. Construction and Maintenance	
a. Construction	
(01) Primary Construction	-
(02) Secondary Construction	192,000
(03) Urban Construction	-
(04) Access and Public Service Roads	-
(05) Discretionary Fund	-
(06) Spot Safety Construction	-
b. State Funds to Match Federal Highway Aid	-
c. State Maintenance	20,577,486
d. Ferry Operations	-
e. Capital Improvements	9,000,000
f. State Aid to Municipalities	192,000

g.	State Aid for Public Transportation and Railroads	7,700,000
h.	OSHA - State	-
04.	Governor's Highway Safety Program	-
05.	Division of Motor Vehicles	765,284
06.	Reserves and Transfers	25,958,316
GRAND TOTAL CURRENT OPERATIONS/ HIGHWAY FUND		$ 65,600,000

PART IV. HIGHWAY TRUST FUND

Section 4. Appropriations from the Highway Trust Fund are made for the fiscal year ending June 30, 2001, according to the schedule that follows. Amounts set out in brackets are reductions from Highway Trust Fund appropriations for the 2000-2001 fiscal year.

Highway Trust Fund		2000-2001
01.	Intrastate System	$ 48,538,626
02.	Secondary Roads Construction	6,102,120
03.	Urban Loops	19,626,998
04.	State Aid - Municipalities	5,092,834
05.	Program Administration	4,119,422
GRAND TOTAL/HIGHWAY TRUST FUND		$ 83,480,000

PART V. BLOCK GRANT FUNDS

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

DHHS BLOCK GRANT PROVISIONS

Section 5.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2001, according to the following schedule:

COMMUNITY SERVICES BLOCK GRANT

01.	Community Action Agencies	$ 12,377,017
02.	Limited Purpose Agencies	687,612
03.	Department of Health and Human Services to administer and monitor the activities of the Community Services Block Grant	687,612
TOTAL COMMUNITY SERVICES BLOCK GRANT		$ 13,752,241

SOCIAL SERVICES BLOCK GRANT

01.	County departments of social services (Transfer from TANF - $4,500,000)	$ 27,395,663
02.	Allocation for in-home services provided by county departments of social services	2,101,113
03.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	3,234,601
04.	Division of Services for the Blind	3,105,711
05.	Division of Facility Services	426,836
06.	Division of Aging - Home and Community Care Block Grant	1,840,234
07.	Child Care Subsidies	3,000,000
08.	Division of Vocational Rehabilitation - United Cerebral Palsy	71,484
09.	State administration	1,693,368
10.	Child Medical Evaluation Program	238,321
11.	Adult day care services	2,155,301
12.	County departments of social services for child abuse prevention and permanency planning	394,841
13.	Transfer to Preventive Health Services Block Grant for emergency medical services	213,128
14.	Transfer to Preventive Health Services Block Grant for AIDS education, counseling, and testing	66,939
15.	Department of Administration for the N.C. Commission of Indian Affairs In-Home Services Program for the elderly	203,198
16.	Division of Vocational Rehabilitation - Easter Seals Society	116,779

17.	UNC-CH CARES Program for training and consultation services	247,920
18.	Office of the Secretary - Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
19.	Special Children Adoption Fund	511,687
20.	Transfer from TANF Block Grant for Enhanced Employee Assistance Program	1,000,000
21.	Transfer from TANF Block Grant for Division of Social Services - Child Caring Agencies	1,500,000
22.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services - Developmentally Disabled Waiting List for services	5,000,000
TOTAL SOCIAL SERVICES BLOCK GRANT		$ 54,558,426

LOW-INCOME ENERGY BLOCK GRANT

01.	Energy Assistance Programs	$ 8,092,113
02.	Crisis Intervention	7,078,114
03.	Administration	1,988,234
04.	Department of Commerce - Weatherization Program	2,684,116
05.	Department of Administration - N.C. Commission of Indian Affairs	39,765
TOTAL LOW-INCOME ENERGY BLOCK GRANT		$ 19,882,342

MENTAL HEALTH SERVICES BLOCK GRANT

01.	Provision of community-based services in accordance with the Mental Health Study Commission's Adult Severe and Persistently Mentally Ill Plan	$ 4,301,361

02. Provision of community-based services to children	1,898,520
03. Establish Child Residential Treatment Services Program	1,500,000
04. Administration	783,911
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	$ 8,483,792

SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT

01. Provision of community-based alcohol and drug abuse services, tuberculosis services, and services provided by the Alcohol and Drug Abuse Treatment Centers	$ 15,043,841
02. Continuation of services for pregnant women and women with dependent children	6,567,532
03. Continuation of services to IV drug abusers and others at risk for HIV diseases	5,210,497
04. Provision of services to children and adolescents	7,216,992
05. Juvenile Services - Family Focus	893,811
06. Juvenile offender services and substance abuse pilot	300,000
07. Establish Child Residential Treatment Services Program	1,000,000
08. Administration	2,623,049
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	$ 38,855,722

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

01. Child care subsidies	$117,145,326
02. Quality and availability initiatives	12,332,039

03. Administrative expenses	6,814,598
04. Transfer from TANF Block Grant for child care subsidies	57,957,188
05. Transfer from TANF Block Grant for child care rate increases and quality initiatives	18,717,812
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	$212,966,963

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT

01. Work First Cash Assistance	
Standard Counties	$ 81,859,561
Electing Counties	24,331,095
02. Work First County Block Grants	92,018,855
03. Transfer to the Child Care and Development Fund Block Grant for child care subsidies	57,957,188
04. Allocation to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for Work First substance abuse screening, diagnostic, and support treatment services and drug testing	3,500,000
05. Allocation to the Division of Social Services for Work First Evaluation	1,500,000
06. Allocation to the Division of Social Services for staff development	500,000
07. Reduction of out-of-wedlock births	1,600,000
08. Substance Abuse Services for Juveniles	1,182,280
09. Special Children Adoption Fund	2,300,000
10. Employment Security Commission - First Stop Employment Assistance	1,000,000
11. Transfer to Social Services Block Grant - Enhanced Employee Assistance Program	1,000,000

12.	Work First Job Retention and Follow-Up Initiatives	1,607,529
13.	Allocation to the Division of Public Health for teen pregnancy prevention	2,000,000
14.	Transfer to Social Services Block Grant for Child Caring Agencies	1,500,000
15.	Child Care Subsidies for TANF Recipients	26,621,241
16.	Work First Housing Initiative	3,000,000
17.	Transfer to Child Care and Development Fund Block Grant for Child Care Rate Increases	18,717,812
18.	Allocation to the Division of Social Services for Domestic Violence Prevention and Awareness	1,000,000
19.	County Child Protective Services, Foster Care and Adoption Workers	2,727,550
20.	Intensive Family Preservation Program	2,000,000
21.	Work First/Boys and Girls Clubs	1,000,000
22.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
23.	Adolescent Pregnancy Prevention Program	239,261
24.	Expand Support Our Students - Office of Juvenile Justice	2,750,674
25.	Residential Substance Abuse Services for Women with Children	5,000,000
26.	Domestic Violence Services for Work First families	3,000,000
27.	Responsible Fatherhood Initiative	1,000,000
28.	After-School Services for At-Risk Children	2,000,000
29.	Division of Social Services - Administration	500,000

30. Child Welfare workers for local departments of social services	7,260,000
31. Work First Pilots	5,400,000
32. Child Welfare Training	2,000,000
33. Work First Business Council	100,000
34. JobLink Pilots	300,000
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT	$362,973,046

MATERNAL AND CHILD HEALTH BLOCK GRANT

01. Healthy Mothers/Healthy Children Block Grants to Local Health Departments	$ 9,838,074
02. High-Risk Maternity Clinic Services, Perinatal Education and Training, Childhood Injury Prevention, Public Information and Education, and Technical Assistance to Local Health Departments	2,012,102
03. Services to Children With Special Health Care Needs	5,078,647
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT	$ 16,928,823

PREVENTIVE HEALTH SERVICES BLOCK GRANT

01. Statewide Health Promotion Programs	$3,184,399
02. Dental Services/Fluoridation	100,800
03. Rape Crisis/Victims' Services Program - Council for Women	190,134
04. Rape Prevention and Education Program - Division of Public Health and Council for Women	1,137,186

05. Transfer from Social Services Block Grant - AIDS/HIV Education, Counseling, and Testing	66,939
06. Transfer from Social Services Block Grant - Emergency Medical Services	213,128
07. Office of Minority Health	159,459
08. Administrative Costs	143,151
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	$5,195,196

Section 5.(b) Decreases in Federal Fund Availability. -- If the United States Congress reduces federal fund availability in the Social Services Block Grant below the amounts appropriated in this section, then the Department of Health and Human Services shall allocate these decreases giving priority first to those direct services mandated by State or federal law, then to those programs providing direct services that have demonstrated effectiveness in meeting the federally and State-mandated services goals established for the Social Services Block Grant. The Department shall not include transfers from TANF for specified purposes in any calculations of reductions to the Social Services Block Grant.

If the United States Congress reduces the amount of TANF funds below the amounts appropriated in this section after the effective date of this act, then the Department shall allocate the decrease in funds after considering any underutilization of the budget and the effectiveness of the current level of services. Any TANF Block Grant fund changes shall be reported to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Decreases in federal fund availability shall be allocated for the Maternal and Child Health and Preventive Health Services federal block grants by the Department of Health and Human Services after considering the effectiveness of the current level of services.

Section 5.(c) Increases in Federal Fund Availability. -- Any block grant funds appropriated by the United States Congress in addition to the funds specified in this act shall be expended by the Department of Health and Human Services, with the approval of the Office of State Budget and Management, provided the resultant increases are in accordance with federal block grant requirements and are within the scope of the block grant plan approved by the General Assembly.

Section 5.(d) Changes to the budgeted allocations to the block grants appropriated in this act due to decreases or increases in federal

funds shall be reported immediately to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Section 5.(e) Limitations on Preventive Health Services Block Grant Funds. -- Twenty-five percent (25%) of funds allocated for Rape Prevention and Rape Education shall be allocated as grants to nonprofit organizations to provide rape prevention and education programs targeted for middle, junior high, and high school students.

If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2000-2001 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an Abstinence Until Marriage Education Program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

Section 5.(f) The sum of one million five hundred thousand dollars ($1,500,000) appropriated to the Department of Health and Human Services, Division of Social Services, in the TANF Block Grant for the 2000-2001 fiscal year for the evaluation of the Work First Program shall be used to do each of the following:

(1) Expand the current evaluation of the Work First Program to assess former recipients' earnings, barriers to advancement to economic self-sufficiency, utilization of community support services, and other longitudinal employment data. Assessment periods shall include six and 18 months following closure of the case.

(2) Expand the current evaluation of the Work First Program to profile the State's child-only caseload to include indicators of economic and social well-being, academic and behavioral performance, demographic data, description of living arrangements including length of placement out of the home, social and other human services provided to families, and other information needed to assess the needs of the child-only Work First Family Assistance clients and families.

(3) Expand the current evaluation to profile clients and families exempted from federal and State work participation requirements. The evaluation shall include an assessment of the client and family needs including why clients and families have been exempted.

The Department of Health and Human Services shall make a report on its progress in complying with this subsection to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than September

30, 2001, and shall make a final report no later than September 30, 2002.

Section 5.(g) The sum of one million six hundred seven thousand five hundred twenty-nine dollars ($1,607,529) appropriated to the Department of Health and Human Services, Division of Social Services, in this section in the TANF Block Grant in the 2000-2001 fiscal year for the Work First job retention and follow-up model programs shall be used to continue pilots and strategies that support TANF recipients in attaining and maintaining self-sufficiency through job retention, family support services, and pre- and post-TANF follow-up.

The Department of Health and Human Services shall make a report on its use of TANF funds for the Work First job retention pilots. This report shall include each of the following:

(1) A description of the clients served by the program. This description shall include demographic and geographic information about the clients.
(2) A description of services provided by the program.
(3) The effectiveness of services to clients. Effectiveness of services to clients shall be measured, in part, by the percentage of clients who remain employed at intervals of six months and one year after commencement of employment.
(4) The estimated cost of services per client.
(5) A description of the development and design of the program and of any evaluation mechanisms.
(6) A description of coordination efforts among local departments of social services with other human services agencies.
(7) A description of progress in achieving other outcome goals such as family economic progress and child/family well-being.

This report shall be made to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than April 1, 2001.

Section 5.(h) The sum of five hundred eleven thousand six hundred eighty-seven dollars ($511,687) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Special Children Adoption Fund, for the 2000-2001 fiscal year shall be used to implement this subsection. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

Section 5.(i) If funds appropriated through the Child Care and Development Fund for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to other programs, in accordance with federal requirements of the grant, in order to use the federal funds fully.

Section 5.(j) The sum of one million five hundred thousand dollars ($1,500,000) appropriated in this act in the TANF Block Grant and transferred to the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for child caring agencies for the 2000-2001 fiscal year shall be allocated to the State Private Child Caring Agencies Fund. These funds shall be combined with all other funds allocated to the State Private Child Caring Agencies Fund for the reimbursement of the State's portion of the cost of care for the placement of certain children by the county departments of social services who are not eligible for federal IV-E funds. These funds shall not be used to match other federal funds.

Section 5.(k) The sum of one million dollars ($1,000,000) appropriated in this section in the TANF Block Grant and transferred to the Social Services Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall be used for the Enhanced Employee Assistance Program, to continue a grant program of financial incentives for private businesses employing former and current Work First recipients. These grants may supply funds to private employers who agree to hire former or current Work First recipients or their spouses at entry-level positions and wages and to supply enhanced grant funds to private employers who agree to hire former or current Work First recipients or their spouses at a level higher than entry-level positions, paying more than the minimum wage, including fringe benefits.

The Department of Health and Human Services shall report no later than April 1, 2001, on the use of these funds to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. This report shall include each of the following:

(1) The number of clients served since the inception of the program by fiscal year.
(2) The amount of funds expended each fiscal year.
(3) A description of the clients served. This description shall include demographic information about these clients.
(4) A description of coordination efforts with other human services agencies, including local departments of social services.
(5) A description of specific services provided to clients.
(6) Statistics related to job retention, measured at least at intervals of six months and one year after the commencement of employment.

(7) Statistics related to the wage history of clients.
(8) Any other information the Department and the Employment Security Commission find relevant to an evaluation of the program.

Section 5.(l) The sum of two million dollars ($2,000,000) appropriated in this act in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2000-2001 fiscal year for the Intensive Family Preservation Services (IFPS) Program shall be used by the Division, in consultation with local departments of social services and other human services agencies, to plan and implement a revised IFPS Program.

Notwithstanding the provisions of G.S. 143B-150.6, the Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented statewide on a regional basis. The revised IFPS Program shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

The Department shall reexamine the existing IFPS Program design to ensure the application of a standardized assessment and clear criteria for the determination of imminent risk of removal. Additionally, the Department shall assess the education and skill levels required of staff providing intensive family preservation services in existing programs.

The Department shall develop a revised evaluation model for the current and expanded IFPS Program. This evaluation shall not include area mental health or juvenile justice programs. The model shall be scientifically rigorous, including the use of treatment comparison groups, a review and description of interventions provided to families as compared to customary services provided to other child welfare children and families, and data regarding the number and type of referrals made for other human services and the utilization of those services.

The Department shall report on the use of the funds appropriated under this subsection, including the revised evaluation model and IFPS Program, to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than April 1, 2001.

Section 5.(m) The Department of Health and Human Services and the Employment Security Commission shall report on the use of funds appropriated under this section from the TANF Block Grant to the First Stop Employment Assistance Program. This report shall include each of the following:

(1) The number of clients served since the inception of the program by fiscal year.
(2) The amount of funds expended each fiscal year.

(3) A description of the clients served. This description shall include demographic information about these clients.
(4) A description of coordination efforts with other human services agencies, including local departments of social services.
(5) A description of specific services provided to both initial and intensive First Stop clients.
(6) The placement rates of clients in both the initial and intensive programs.
(7) Statistics related to job retention, measured at least at intervals of six months and one year after the commencement of employment.
(8) Statistics related to the wage history of clients.
(9) Any other information the Department and the Employment Security Commission find relevant to an evaluation of the program.

This report shall be made to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than April 1, 2001.

Section 5.(n) The sum of one million dollars ($1,000,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and Girls Clubs shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF Block Grant funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youth and to implement other initiatives that would be expected to reduce school dropout and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate. The Department shall report on its progress in complying with this subsection to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later that April 1, 2001.

Section 5.(o) Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

Section 5.(p) The sum of three million dollars ($3,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the Work First Housing Initiative shall be used for direct housing support to Work First clients and families. Direct housing support includes using funds for rental assistance, loans, moving expenses, and other financial assistance. No more than ten percent

(10%) of these funds may be used for administration. These funds may be used for counseling or similar services only if it is demonstrated that those services are not otherwise available in the community.

Section 5.(q) The sum of five hundred thousand dollars ($500,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2000-2001 fiscal year shall be used to support administration of TANF-funded programs.

Section 5.(r) The sum of five million dollars ($5,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2000-2001 fiscal year shall be used to establish and expand regional residential substance abuse treatment and services for women with children. The Department of Health and Human Services, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in consultation with local departments of social services, area mental health programs, and other State and local agencies or organizations, shall coordinate this effort in order to facilitate the expansion of regionally based substance abuse services for women with children. These services shall be culturally appropriate and designed for the unique needs of TANF women with children.

In order to expedite the expansion of these services, the Secretary of the Department of Health and Human Services may enter into contracts with service providers.

The Department of Health and Human Services, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall report on their progress in complying with this subsection no later than October 1, 2000, and March 1, 2001, to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. These reports shall include all of the following:

(1) The number and location of additional beds created.
(2) The types of facilities established.
(3) The delineation of roles and responsibilities at the State and local levels.
(4) Demographics of the women served, the number of women served, and the cost per client.
(5) Demographics of the children served, the number of children served, and the services provided.
(6) Job placement services provided to women.
(7) A plan for follow-up and evaluation of services provided with an emphasis on outcomes.
(8) Barriers identified to the successful implementation of the expansion.

(9) Identification of other resources needed to appropriately and efficiently provide services to Work First recipients.

(10) Other information as requested.

Section 5.(s) The sum of two million seven hundred fifty thousand six hundred seventy-four dollars ($2,750,674) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services and transferred to the Office of Juvenile Justice for the 2000-2001 fiscal year shall be used to support the existing Support Our Students Program and to expand the Program statewide. These funds shall not be used for administration of the program.

Section 5.(t) The sum of three million dollars ($3,000,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2000-2001 fiscal year shall be used to provide domestic violence services to Work First recipients. The Division of Social Services, in consultation with the Council for Women and local departments of social services, shall develop and implement a mechanism by which these funds may be used to facilitate delivery of domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters, for State administration, or to facilitate lobbying efforts. The Department of Health and Human Services and the Council for Women shall report on the uses of these funds no later than February 1, 2001, to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Section 5.(u) The sum of one million dollars ($1,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Public Health, for the 2000-2001 fiscal year shall be used to support the Responsible Fatherhood Initiative. These funds shall be used for responsible parenting programs targeted at young-adult males. These funds shall be targeted at counties with the highest needs as determined by the Division of Public Health. The evaluation of this initiative shall be incorporated into the overall evaluation of the pregnancy prevention and responsible parenting activities currently in place. This initiative shall be administered as directed in subsection (v) of this section.

Section 5.(v) The funds appropriated to the Department of Health and Human Services, Division of Public Health, in this act for the 2000-2001 fiscal year for teen pregnancy prevention shall be used in accordance with the provisions of this subsection.

Effective July 1, 2000, the Department of Health and Human Services, Division of Public Health, in collaboration with local program administrators, the Adolescent Pregnancy Prevention Coalition of North Carolina, and other organizations, shall adopt guidelines for the administration of funds for teen pregnancy

prevention and for parenting programs. The guidelines shall include the following programmatic requirements:

(1) Council development at the local level is encouraged but not required for program funding. Councils that received first-year funding for the 1999-2000 fiscal year for administrative expenses for coalition building and partnership development shall receive funds committed for the second year of organizational development. The Division shall encourage programs that receive funding under this section to involve other health service organizations, nonprofit organizations, and task forces in program efforts.

(2) In awarding grants, the Department shall target counties with the highest teen pregnancy rates, increasingly higher teen pregnancy rates, high rates within demographic subgroups, or greatest need for parenting programs. Grants may be renewed annually based on program efficiency and effectiveness, teen pregnancy rates, and the level of need for parenting programs. Grants shall be funded at a particular level and may be funded on a multiyear cycle.

(3) The Division shall encourage all programs to implement best practice models. While best practice models are encouraged, the Department may fund innovative and promising projects that have not yet been recognized as best practice. All existing programs not using best practice models shall be encouraged to transition to the use of best practice models.

(4) Programs are not required to provide a cash match for these funds, however, the Department may require an in-kind match.

Funds for State-level administrative expenses of the Program shall not exceed ten percent (10%) of the total budget for teen pregnancy prevention and parenting programs. Administrative expenses include staffing and contracted services for evaluation and coalition-building activities.

The Department shall contract with an independent private consulting firm to evaluate the programs. The evaluation shall include standard data collection utilizing the mechanism that has been developed by the University of North Carolina at Chapel Hill, School of Social Work, and shall be conducted in a manner that objectively measures the effectiveness of each program evaluated.

The Department shall report annually on March 1, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division. The report shall include information on all of the following for each teen pregnancy prevention and parenting program:

(1) The program budget delineating all administrative expenses, contracts for services, and technical assistance.

(2) A narrative describing each project funded and the amount of funds received by the project.

(3) Effectiveness of the program in reducing teen pregnancy or developing responsible parenting skills in young adults, as applicable.

(4) Status of the evaluation.

Section 5.(w) The sum of two million dollars ($2,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy and school dropout. The Department shall award grants to community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools, and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to establish one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State administration. The Department shall report no later than March 1, 2001, on its progress in complying with this section to the Senate Appropriations Committee on Human Resources, the House of Representatives Subcommittee on Health and Human Services, and the Fiscal Research Division.

Section 5.(x) The Department of Health and Human Services may use available block grant funds up to the sum of five million twelve thousand dollars ($5,012,000) in the 2000-2001 fiscal year to continue the Business Process Reengineering Project. The Department shall report directly on the use of any funds under this subsection to the Information Resource Management Commission in accordance with the Commission's requirements. The Department shall report on the use of these funds no later than April 1, 2001, to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Section 5.(y) The sum of seven million two hundred sixty thousand dollars ($7,260,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2000-2001 fiscal year for Child Welfare Improvements shall be allocated to the county departments of social services for hiring or contracting additional staff on or after July 1, 2000, to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

Section 5.(z) The sum of one million five hundred thousand dollars ($1,500,000) appropriated in this section in the Mental Health Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance

Abuse Services, for the 2000-2001 fiscal year and the sum of one million dollars ($1,000,000) appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2000-2001 fiscal year shall be used to establish a Child Residential Treatment Services Program in accordance with Section 11.19 of this act.

Section 5.(aa) The Department of Health and Human Services, the Department of Commerce, and the Department of Public Instruction may allocate available block grant funds for pilot programs established pursuant to Section 11.4A of this act. These funds may be used for the planning, implementation, and evaluation of those pilot programs.

Section 5.(bb) The sum of two million dollars ($2,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for fiscal year 2000-2001 shall be used to support various child welfare training projects as follows:

(1) The sum of three hundred fifty thousand dollars ($350,000) shall be used to establish a regional training center in southeastern North Carolina.

(2) The sum of seven hundred fifty thousand dollars ($750,000) shall be used to support the Masters Degree in Social Work/Baccalaureate Degree in Social Work Collaborative.

(3) The sum of one hundred eighty thousand dollars ($180,000) to provide training for residential child care facilities.

(4) The sum of seven hundred twenty thousand dollars ($720,000) to provide for various other child welfare training initiatives.

Section 5.(cc) The sum of three hundred thousand dollars ($300,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2000-2001 fiscal year for JobLink pilots shall be used to replicate the Ladders to Success model program at community colleges.

The Department shall make two reports no later than February 15, 2001, and May 15, 2001, respectively, to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. These reports shall include the following:

(1) A detailed explanation by each recipient of start-up funds on the use of these funds.

(2) A detailed explanation of the incentives offered to each county department of social services to encourage collaboration with JobLink programs including an explanation of the necessity of the incentives and an

explanation of the benefits obtained as a result of the incentives.

(3) A detailed explanation of services offered by JobLink as a result of the incentives including an explanation of why the services are not otherwise offered.

(4) A description of and justification for the use of incentive funds.

(5) A report on the individuals hired or contracted to staff JobLink programs including the number of individuals hired or contracted, the positions and primary responsibilities of individuals hired or contracted, and the impact of these additional positions on JobLink clients.

(6) A detailed report on the employment outcomes of Work First clients who have participated in JobLink programs including information on job retention rates and salary level.

(7) Demographic information on clients served in the program.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

NER BLOCK GRANT FUNDS

Section 5.1.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2001, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT	
01. State Administration	$ 1,000,000
02. Urgent Needs and Contingency	1,000,000
03. Scattered Site Housing	10,340,000
04. Economic Development	8,710,000
05. Community Revitalization	13,500,000
06. State Technical Assistance	450,000
07. Housing Development	3,000,000
08. Infrastructure	7,000,000
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT - 2001 Program Year	$ 45,000,000

Section 5.1.(b) Decreases in Federal Fund Availability. -- Decreases in federal fund availability for the Community Development Block Grants. -- If federal funds are reduced below the amounts specified above after the effective date of this act, then every program

in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

Section 5.1.(c) Increases in Federal Fund Availability for Community Development Block Grant. -- Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: -- Each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

Section 5.1.(d) Limitations on Community Development Block Grant Funds. -- Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars ($1,000,000) may be used for State administration; up to one million dollars ($1,000,000) may be used for Urgent Needs and Contingency; up to ten million three hundred forty thousand dollars ($10,340,000) may be used for Scattered Site Housing; up to eight million seven hundred ten thousand dollars ($8,710,000) may be used for Economic Development; not less than thirteen million five hundred thousand dollars ($13,500,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars ($450,000) may be used for State Technical Assistance; up to three million dollars ($3,000,000) may be used for Housing Development; up to seven million dollars ($7,000,000) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

Section 5.1.(e) Increase Capacity for Nonprofit Organizations. -- Assistance to nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in partnership with units of local government is an eligible activity under any program category in accordance with federal regulations. Capacity building grants may be made from funds available within program categories, program income, or unobligated funds.

Section 5.1.(f) Future CDBG Proposals. -- In developing future CDBG proposals, the Department of Commerce shall consider ways in which to address the abatement of outhouses in the State.

PART VI. GENERAL FUND AND HIGHWAY FUND AVAILABILITY STATEMENTS

GENERAL FUND AVAILABILITY STATEMENT

Section 6.(a) The General Fund availability used to adjust the 2000-2001 fiscal year budget is shown below:

Budget Reform Statement	FY 2000-2001 ($ million)
Beginning Unreserved Credit Balance	0.0
Tax Revenues - Current Tax Law	13,216.3
Non-Tax Revenues:	
Investment Income	214.0
Judicial Fees	106.7
Disproportionate Share	105.0
Insurance	42.1
Highway Trust Fund Transfer	170.0
Highway Fund Transfer	13.8
Other Non-Tax Revenues	103.9
Subtotal	13,971.8
HB 1854 - 2000 Fee Bill	6.1
Y2K Reserve Transfer	9.0
Hurricane Fran Reserve Transfer	48.0
11TH/12TH Month Carryforward Revision	11.0
HB 1559 IRC Conformity Adjustment	(2.0)
Disproportionate Share Reserve Transfer	1.0
Crime Victims Compensation Fund Reversion	1.0
State/Federal Retirees Administrative Cost Reimbursement	0.1
Federal Retirees Refund Reversion	0.3
SB 1305 UCC Revision	3.9
TOTAL GENERAL FUND AVAILABILITY	14,050.2

Section 6.(b) Effective June 30, 2000, the Director of the Budget shall transfer from the 11th/12th month carryforward balance in the State Aid to Local School Administrative Units the sum of two hundred forty million dollars ($240,000,000) to a reserve in the Department of State Treasurer. These funds shall be held in reserve for allocation pursuant to a consent order entered in Wake County Superior Court for the Class B plaintiffs in Smith, et al. v. State, 95 CVS 06715 and for all plaintiffs in Shaver, et al. v. State, 98 CVS 00625. Of funds remaining in the 11th/12th month carryforward balance on July 1, 2000, the sum of eleven million dollars ($11,000,000) shall revert to the General Fund.

Section 6.(c) The unencumbered balance remaining in the Department of Commerce Y2K Conversion Fund shall be transferred to the General Fund on July 1, 2000.

Section 6.(d) Of the unencumbered balance remaining in Budget Code 13017-1710, the Hurricane Fran Disaster Relief Fund, the sum of forty-eight million dollars ($48,000,000) shall be transferred to the General Fund on July 1, 2000.

Section 6.(e) Of the unencumbered balance in budget code 24701 in the Department of Revenue, the sum of three hundred fifty thousand dollars ($350,000) shall be transferred to the General Fund on July 1, 2000.

Section 6.(f) The Commissioner of Insurance shall transfer funds quarterly from the Department of Insurance Fund to the General Fund to repay the funds appropriated to the Department of Insurance from the General Fund for each fiscal year, plus accrued interest at a rate determined by the State Treasurer.

Section 6.(g) Disproportionate Share Receipts reserved at the end of the 1999-2000 fiscal year shall be deposited with the Department of State Treasurer as a nontax revenue for the 2000-2001 fiscal year.

HIGHWAY FUND AVAILABILITY

Section 6.1. The Highway Fund appropriations availability used in developing modifications to the 2000-2001 Highway Fund budget contained in this act is shown below:

	2000-2001
Beginning Credit Balance	$6,980,000
Estimated Revenue	1,240,030,000
Additional Reversions	--
TOTAL HIGHWAY FUND AVAILABILITY	$1,247,010,000

PART VII. GENERAL PROVISIONS

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

CONTROLLER FINANCIAL STATEMENT REPORTING CLARIFICATION

Section 7.(a) G.S. 143-20.1 reads as rewritten:

"*§ 143-20.1. Annual financial statements.*

~~Beginning with fiscal years ending in 1984 and each and every year thereafter,~~ Every fiscal year, all State agencies and component units of the State, as defined by generally accepted accounting principles, shall prepare annual financial statements on all funds administered by them no later than 60 days ~~subsequent to the close~~ after the end of the State's fiscal year then ended in accordance with generally accepted accounting principles as described in authoritative pronouncements and interpreted ~~and/or~~ or prescribed by the State Controller, and in ~~such form as he may require.~~ the form required by the State Controller. The State Controller shall publish guidelines specifying the procedures to implement the necessary records, procedures, and accounting systems to reflect these statements on the proper basis of accounting.

Accordingly, the State Controller shall combine the financial statements for the various agencies into a Comprehensive Annual

Financial Report for the State of North Carolina in accordance with generally accepted accounting principles. These statements, along with the opinion of the State Auditor, shall be published as the official financial statements of the State and shall be distributed to the Governor, the Office of State Budget and Management, members of the General Assembly, heads of departments, ~~agencies~~ agencies, and institutions of the State, and other interested parties. The State Controller shall notify the Director of the Budget of any ~~and all~~ State agencies ~~which~~ and component units of the State, as defined by generally accepted accounting principles, that have not complied fully with the requirements of this ~~provision~~ section within the specified time, and the Director of the Budget shall employ whatever means necessary, including the withholding of allotments, to ensure immediate corrective actions."

Section 7.(b) G.S. 143B-426.39 reads as rewritten:

"*§ 143B-426.39. Powers and duties of the State Controller.*

The State Controller shall:

(1) Prescribe, develop, operate, and maintain in accordance with generally accepted principles of governmental accounting, a uniform state accounting system for all state agencies. The system shall be designed to assure compliance with all legal and constitutional requirements including those associated with the receipt and expenditure of, and the accountability for public funds.

(2) On the recommendation of the State Auditor, prescribe and supervise the installation of any changes in the accounting systems of an agency that, in the judgment of the State Controller, are necessary to secure and maintain internal control and facilitate the recording of accounting data for the purpose of preparing reliable and meaningful statements and reports. The State Controller shall be responsible for seeing that a new system is designed to accumulate information required for the preparation of budget reports and other financial reports.

(3) Maintain complete, accurate and current financial records that set out all revenues, charges against funds, fund and appropriation balances, interfund transfers, outstanding vouchers, and encumbrances for all State funds and other public funds including trust funds and institutional funds available to, encumbered, or expended by each State agency, in a manner consistent with the uniform State accounting system.

(4) Prescribe the uniform classifications of accounts to be used by all State agencies including receipts, expenditures, assets, liabilities, fund types, organization codes, and purposes. The State Controller shall also, after consultation with the Office of State Budget and Management, prescribe a form for the periodic reporting of financial accounts, transactions, and other matters that is compatible with

systems and reports required by the State Controller under this section. Additional records, accounts, and accounting systems may be maintained by agencies when required for reporting to funding sources provided prior approval is obtained from the State Controller.

(4a) Prescribe that, unless exempted by the State Controller, newly created or acquired component units of the State are required to have the same fiscal year as the State.

(5) Prescribe the manner in which disbursements of the State agencies shall be made, in accordance with G.S. 143-3.

(6) Operate a central payroll system, in accordance with G.S. 143-3.2 and 143-34.1.

(7) Keep a record of the appropriations, allotments, expenditures, and revenues of each State agency, in accordance with G.S. 143-20.

(8) Make appropriate reconciliations with the balances and accounts kept by the State Treasurer.

(9) Develop, implement, and amend as necessary a uniform statewide cash management plan for all State agencies in accordance with G.S. 147-86.11.

(9a) Implement a statewide accounts receivable program in accordance with Article 6B of Chapter 147 of the General Statutes.

(10) Prepare and submit to the Governor, the State Auditor, the State Treasurer, and the Office of State Budget and Management each month, a report summarizing by State agency and appropriation or other fund source, the results of financial transactions. This report shall be in the form that will most clearly and accurately set out the current fiscal condition of the State. The State Controller shall also furnish each State agency a report of its transactions by appropriation or other fund source in a form that will clearly and accurately present the fiscal activities and condition of the appropriation or fund source.

(11) Prepare and submit to the Governor, the State Auditor, the State Treasurer, and the Office of State Budget and Management, at the end of each quarter, a report on the financial condition and results of operations of the State entity for the period ended. This report shall clearly and accurately present the condition of all State funds and appropriation balances and shall include comments, recommendations, and concerns regarding the fiscal affairs and condition of the State.

(12) Prepare on or before October 31 of each year, a Comprehensive Annual Financial Report in accordance with generally accepted accounting principles of the preceding fiscal year, in accordance with G.S. 143-20.1. The report shall include State agencies and component

units of the State, as defined by generally accepted accounting principles.

(13) Perform additional functions and duties assigned to the State Controller, within the scope and context of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes.

(14) through (16) Recodified by Session Laws 1997-148, s. 3."

Section 7.(c) G.S. 115D-58.5(a) reads as rewritten:

"(a) Each institution shall establish and maintain an accounting system consistent with procedures as prescribed by the Community Colleges System Office and the State ~~Auditor,~~ Controller, which shows its assets, liabilities, equities, revenues, and expenditures."

Requested by: Representatives Nesbitt, Walend, Easterling, Redwine, Baddour, Senators Plyler, Perdue, Odom, Miller

RAISE STATE TORT CLAIMS LIMIT

Section 7A.(a) G.S. 143-291(a) reads as rewritten:

"(a) The North Carolina Industrial Commission is hereby constituted a court for the purpose of hearing and passing upon tort claims against the State Board of Education, the Board of Transportation, and all other departments, institutions and agencies of the State. The Industrial Commission shall determine whether or not each individual claim arose as a result of the negligence of any officer, employee, involuntary servant or agent of the State while acting within the scope of his office, employment, service, agency or authority, under circumstances where the State of North Carolina, if a private person, would be liable to the claimant in accordance with the laws of North Carolina. If the Commission finds that there was ~~such~~ negligence on the part of an officer, employee, involuntary servant or agent of the State while acting within the scope of his office, employment, service, agency or ~~authority, which~~ authority that was the proximate cause of the injury and that there was no contributory negligence on the part of the claimant or the person in whose behalf the claim is asserted, the Commission shall determine the amount of damages ~~which~~ that the claimant is entitled to be paid, including medical and other expenses, and by appropriate order direct the payment of ~~such~~ damages ~~by the department, institution or agency concerned,~~ as provided in subsection (a1) of this section, but in no event shall the amount of damages awarded exceed the ~~sum of one hundred fifty thousand dollars ($150,000)~~ amounts authorized in G.S. 143-299.2 cumulatively to all claimants on account of injury and damage to any one ~~person.~~ person arising out of a single occurrence. Community colleges and technical colleges shall be deemed State agencies for purposes of this Article. The fact that a claim may be brought under more than one Article under this Chapter shall not increase the foregoing maximum liability of the State."

Section 7A.(b) G.S. 143-291 is amended by adding a new subsection to read:

"(a1) The unit of State government that employed the employee at the time the cause of action arose shall pay the first one hundred fifty thousand dollars ($150,000) of liability, and the balance of any payment owed shall be paid in accordance with G.S. 143-299.4."

Section 7A.(c) G.S. 143-291.3 reads as rewritten:

"*§ 143-291.3. Counterclaims by State.*

The filing of a claim under this Article shall constitute consent by the ~~plaintiff(s)~~ plaintiff to the jurisdiction of the Industrial Commission to hear and determine any counterclaim of ~~one hundred fifty thousand dollars ($150,000)~~ the maximum amount authorized for a claim in G.S. 143-299.2 or less ~~which~~ that may be filed on behalf of a State department, ~~institution, or agency~~ institution or agency, or a county or city board of education. A final award of the Industrial Commission awarding damages on a counterclaim shall be filed with the ~~Clerk of the Superior Court~~ clerk of the superior court of the county ~~wherein~~ where the case was heard. These awards shall be docketed and shall be enforceable in the same manner as judgments of the General Court of Justice. Notwithstanding the provisions of Rule 12 of the Rules of Civil Procedure, nothing in this section shall require the filing of ~~such~~ a counterclaim."

Section 7A.(d) G.S. 143-299.2 reads as rewritten:

"*§ 143-299.2. Limitation on payments by the State.*

(a) The maximum amount ~~which~~ that the State may pay cumulatively to all claimants on account of injury and damage to any one ~~person,~~ person arising out of any one occurrence, whether the claim or claims are brought under this ~~Article~~ Article, or Article 31A or ~~Article 31B, shall be one hundred fifty thousand dollars ($150,000),~~ Article 31B of this Chapter, shall be five hundred thousand dollars ($500,000), less any commercial liability insurance purchased by the State and applicable to the claim or claims under G.S. 143-291(b), 143-300.6(c), or 143-300.16(c).

(b) The fact that a claim or claims may be brought under more than one Article under this Chapter shall not increase the above maximum liability of the State."

Section 7A.(e) Article 31 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"*§ 143-299.4. Payment of State excess liability.*

For each claim payable during any fiscal year in excess of one hundred fifty thousand dollars ($150,000) per claim arising under this Article, or Article 31A or 31B of this Chapter, on account of injury or damage to any one person, each State agency shall transfer to the Office of State Budget and Management its proportionate share of that agency's estimated lapsed salaries, as determined by the Director of the Budget, and the Director of the Budget shall use these transferred funds to pay the balance of that claim in excess of one hundred fifty thousand dollars ($150,000)."

Section 7A.(f) G.S. 143-300.1(c) reads as rewritten:

"(c) In the event that the Industrial Commission ~~shall make award of~~ awards damages against any county or city board of education

~~pursuant to~~ under this section, the Attorney General shall draw a voucher for the amount required to pay ~~such~~ the award. The funds necessary to cover the first one hundred fifty thousand dollars ($150,000) of liability per claim ~~vouchers written by the Attorney General~~ for claims against county and city boards of education for accidents involving school buses and school transportation service vehicles shall be made available from funds appropriated to the ~~Department of Public Instruction.~~ State Board of Education. The balance of any liability owed shall be paid in accordance with G.S. 143-299.4. Neither the county or city boards of education, or the county or city administrative unit shall be liable for the payment of any award made pursuant to the provisions of this section in excess of the amount paid upon ~~such~~ a voucher by the Attorney General. Settlement and payment may be made by the Attorney General as provided in G.S. 143-295."

Section 7A.(g) G.S. 143-300.1(d) reads as rewritten:

"(d) The Attorney General may defend any civil action ~~which may be~~ brought against the driver, transportation safety assistant, or monitor of a public school bus or school transportation service vehicle or school bus maintenance mechanic when ~~such~~ the driver or mechanic is employed and paid by the local school administrative unit, when the monitor is acting in accordance with G.S. 115C-245(d), when the transportation safety assistant is acting in accordance with G.S. 115C-245(e), or when the driver is an unpaid school bus driver trainee under the supervision of an authorized employee of the Department of Transportation, Division of Motor Vehicles, or an authorized employee of a county or city board of education or administrative ~~unit thereof.~~ unit. The Attorney General may afford this defense through the use of a member of his staff or, in his discretion, employ private counsel. The Attorney General is authorized to pay any judgment rendered in ~~such~~ the civil action not to exceed the limit provided under the Tort Claims Act. The funds necessary to cover the first one hundred fifty thousand dollars ($150,000) of liability per claim shall be made available from funds appropriated to the State Board of Education. The balance of any liability owed shall be paid in accordance with G.S. 143-299.4. The Attorney General may compromise and settle any claim covered by this section to the extent that he finds the same to be valid, up to the limit provided in the Tort Claims Act, provided that the authority granted in this subsection shall be limited to only those claims ~~which~~ that would be within the jurisdiction of the Industrial Commission under the Tort Claims Act."

Section 7A.(h) G.S. 143-300.6(a) reads as rewritten:

"(a) Payment of Judgments and Settlements. In an action to which this Article applies, the State shall pay (i) a final judgment awarded in a court of competent jurisdiction against a State employee or (ii) the amount due under a settlement of the action under this section. The unit of State government ~~by which~~ that employed the employee ~~was employed~~ shall ~~make the payment.~~ pay the first one hundred fifty

thousand dollars ($150,000) of liability, and the balance of any payment owed shall be paid in accordance with G.S. 143-299.4. This section does not waive the sovereign immunity of the State with respect to any claim. A payment of a judgment or settlement of a claim against a State employee or several State employees as joint tort-feasors may not exceed the amount payable for one claim under the Tort Claims Act."

Section 7A.(i) G.S. 143-300.16(a) reads as rewritten:

"(a) Any final judgment awarded against an employee in an action ~~which~~ that meets the requirements of G.S. 143-300.14, or any amount payable under a settlement of ~~such an~~ the action, shall be paid by the State. The first one hundred fifty thousand dollars ($150,000) of liability shall be paid from funds appropriated to the State Board of Education for the payment of State Tort Claims. The balance of any payment owed shall be paid in accordance with G.S. 143-299.4. ~~from the appropriation for the payment of State Tort Claims, except that no~~ No payment shall be made from ~~that appropriation~~ either funds appropriated to the State Board of Education or funds transferred from State agencies under G.S. 143-299.4 for any judgment for punitive damages. Nothing in this section shall be deemed to waive the sovereign immunity of the State with respect to a claim covered under this section or authorize the payment of any judgment or settlement against a public school employee in excess of the limit provided in the Tort Claims Act."

Section 7A.(j) Notwithstanding the limitations of G.S. 143-291.3, for claims pending on the effective date of this act, any counterclaim made by the State under G.S. 143-291.3 shall not exceed the greater of one hundred fifty thousand dollars ($150,000) or the amount of the plaintiff's claim.

Section 7A.(k) Subsections (a), (b), and (d) through (j) of this section apply to claims or actions pending on or after the effective date of this section. Subsection (c) of this section applies to claims filed on or after the effective date of this section.

Requested by: Representatives Easterling, Redwine, Senators Gulley, Dalton, Plyler, Perdue, Odom

NORTH CAROLINA RAILROAD DIVIDENDS/REPORT

Section 7.2.(a) Chapter 124 of the General Statutes is amended by adding a new section to read:

"*§ 124-5.1. State use of North Carolina Railroad dividends.*

(a) Notwithstanding the provisions of G.S. 136-16.6, in order to increase the capital of the North Carolina Railroad Company, any dividends of the North Carolina Railroad Company received by the State shall be applied to reduce the obligations described in subsection (c) of Section 32.30 of S.L. 1997-443, as amended by subsection (d) of Section 27.11 of S.L. 1999-237. Any dividends of the North Carolina Railroad Company received by the State shall be used by the Department of Transportation for the improvement of the property of

the North Carolina Railroad Company as recommended and approved by the Board of Directors of the North Carolina Railroad Company.

(b) Effective January 1, 2000, interest shall not be accrued or otherwise charged on the remaining balance of the obligations described in subsection (c) of Section 32.30 of S.L. 1997-443, as amended by subsection (d) of Section 27.11 of S.L. 1999-237. Interest accrued on those obligations relating to periods prior to January 1, 2000, shall be deemed paid and contributed by the State to the capital of the North Carolina Railroad Company."

Section 7.2.(b) G.S. 124-3 reads as rewritten:

"*§ 124-3. Report of railroad, canal, etc.; contents.*

The president or other chief officer of every railroad, canal, or other public work of internal improvement in which the State owns an interest, shall, ~~when required to do so by the Governor,~~ report annually to the Joint Legislative Commission on Governmental Operations. ~~make or cause to be made to the Governor and Council of State a written report of its affairs.~~ This report shall ~~show:~~ include:

(1) Number of shares owned by the State.
(2) Number of shares owned otherwise.
(3) ~~Face~~ Par value of ~~such~~ the shares.
~~(4) Market value of each of such shares.~~
(5) Amount of bonded debt, and for what purpose contracted.
(6) Amount of other debt, and how incurred.
(7) If interest on bonded debt has been punctually paid as agreed; if not, how much in arrears.
(8) Amount of gross receipts for past year, and from what sources derived.
(9) An itemized account of expenditures for past year.
(10) ~~Any lease or sale of said property, or any part thereof, to whom made, for what consideration, and for what length of time.~~ A summary of all leases, sales, or acquisitions of real property to which the company has been a party since the last report.
(11) Suits at law pending against his company concerning its bonded debt, or in which title to all or any part of such road or canal is concerned.
(12) Any sales of stock owned by the State, by whose order made, and disposition of the proceeds.
(13) Annual financial statements, including notes, audited by an independent certified public accounting firm.

~~Any person failing to report as required by this section shall be guilty of a Class 1 misdemeanor.~~ Upon the request of the Governor or any committee of the General Assembly, a State-owned railroad company shall provide all additional information and data within its possession or ascertainable from its records."

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

STATE-SUPPORTED SCIENCE/TECHNOLOGY RECOMMENDATIONS/STUDY

Section 7.3.(a) The General Assembly finds that significant State funding or in-kind support of scientific or technological development activity by a non-State entity has been provided, but questions have arisen about whether there has been adequate provision for reimbursement of these expenses or a sharing by the State of the returns on the activities. The General Assembly desires to develop a policy to ensure that the State will share in any gain on these development activities in return for the substantial investment provided by the State, without discouraging traditional scientific or technological development activities provided through research institutions in the University system. The General Assembly finds that any solution should not cause unintended consequences, but shall protect the interest of the taxpayers who have provided the funds.

The General Assembly further finds that the constituent institutions of The University of North Carolina and the North Carolina Community Colleges System already have in place licensing, royalty, intellectual property, and other arrangements.

Section 7.3.(b) The Legislative Research Commission may study whether, consistent with the findings of subsection (a) of this section, the following should be required from the non-State entity as conditions of the funding or in-kind support:

(1) An acknowledgement that State funding or in-kind support is provided to serve a public purpose.

(2) A copy of the non-State entity's audited annual financial report for the year before and then each year after the extension of State funding or in-kind support.

(3) A quarterly report of marketing activities related to any of its scientific or technological development activity that has received State funding or in-kind support.

(4) Prior notice of any acquisition, merger, or corporate activity by the non-State entity that would:

a. Affect the public purpose and public benefit contemplated in the extension of State funding or in-kind support.

b. Benefit any of its corporate officers in the form of receiving directly or indirectly stock, stock options, or other valuable interest in a for-profit or nonprofit entity.

Section 7.3.(c) The Legislative Research Commission shall further study, consistent with the findings in subsection (a) of this section, whether the State shall provide funding or in-kind support to a non-State entity for scientific or technological development only as a contractual agreement and whether a condition of the contract shall be that the non-State entity do the following: (1) Reimburse the State for all State support of any invention, innovation, discovery, or process that is transferred or marketed for a profit by the non-State entity.

(2) Agree to provide to the State prospectively a share in the future profits generated by a State-supported scientific or technological development.

Section 7.3.(d) The Legislative Research Commission may consult with The University of North Carolina and the North Carolina Community Colleges System regarding policy and practices relative to licensing and royalty arrangements.

Section 7.3.(e) The Legislative Research Commission shall report its recommendations to the 2001 Session of the General Assembly.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

BUDGETING OF FUNDS TO IMPLEMENT THE ABCs OF PUBLIC EDUCATION PROGRAM

Section 7.4. The Director of the Budget shall include in the proposed continuation budget for the 2001-2003 fiscal biennium funds necessary to provide:

(1) Incentive funding for schools that meet or exceed the projected levels of improvement in student performance in accordance with the ABCs of Public Education Program; and

(2) Financial awards for personnel in schools that obtain the goals of the pilot program established in Section 8.36 of S.L. 1999-237. The purpose of this program is to test and evaluate a revised school accountability model for the ABCs of Public Education Program.

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

DISASTER RELIEF FUNDS

Section 7.5. The Director of the Budget may use lapsed salary funds for the 2000-2001 fiscal year to match federal funds for disaster relief.

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom, Martin of Pitt, Robinson, Carter, Metcalf

CLEAN WATER MANAGEMENT TRUST FUND

Section 7.7.(a) Notwithstanding G.S. 143-15.3B(a), the State Controller shall not reserve to the Clean Water Management Trust Fund any portion of the unreserved credit balance remaining in the General Fund at the end of the 2000-2001 fiscal year.

Section 7.7.(b) Effective July 1, 2001, G.S. 143-15.3B(a) reads as rewritten:

"(a) The Clean Water Management Trust Fund is established in G.S. 113-145.3. ~~The State Controller shall reserve to the Clean Water Management Trust Fund six and one-half percent (6.5%) of any unreserved credit balance remaining in the General Fund at the end of each fiscal year or thirty million dollars ($30,000,000), whichever is~~

~~greater.~~ The General Assembly finds that, due to the critical need in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted, it is imperative that the State provide a minimum of forty million dollars ($40,000,000) each calendar year to the Clean Water Management Trust Fund; therefore, there is annually appropriated from the General Fund to the Clean Water Management Trust Fund the sum of forty million dollars ($40,000,000)."

Section 7.7.(c) Effective July 1, 2002, G.S. 143-15.3B(a), as rewritten by subsection (b) of this section, reads as rewritten:

"(a) The Clean Water Management Trust Fund is established in G.S. 113-145.3. The General Assembly finds that, due to the critical need in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted, it is imperative that the State provide a minimum of ~~forty million dollars ($40,000,000)~~ seventy million dollars ($70,000,000) each calendar year to the Clean Water Trust Fund; therefore, there is annually appropriated from the General Fund to the Clean Water Management Trust Fund the sum of ~~forty million dollars ($40,000,000).~~ seventy million dollars ($70,000,000)."

Section 7.7.(d) Effective July 1, 2003, G.S. 143-15.3B(a), as rewritten by subsections (b) and (c) of this section, reads as rewritten:

"(a) The Clean Water Management Trust Fund is established in G.S. 113-145.3. The General Assembly finds that, due to the critical need in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted, it is imperative that the State provide a minimum of ~~seventy million dollars ($70,000,000)~~ one hundred million dollars ($100,000,000) each calendar year to the Clean Water Management Trust Fund; therefore, there is annually appropriated from the General Fund to the Clean Water Management Trust Fund the sum of ~~seventy million dollars ($70,000,000).~~ one hundred million dollars ($100,000,000)."

Section 7.7.(e) G.S. 143-15.2 reads as rewritten:

"*§ 143-15.2. Use of General Fund credit balance; priority uses.*

(a) As used in G.S. 143-15.3, 143-15.3A, and 143-15.3B, the term 'unreserved credit balance' means the credit balance amount, as determined on a cash basis, before funds are reserved by the State Controller to the Savings Reserve ~~Account, the~~ Account or the Repairs and Renovations Reserve ~~Account, or the Clean Water Management Trust Fund~~ Account pursuant to ~~G.S. 143-15.3, 143-15.3A, and 143-15.3B.~~ G.S. 143-15.3 and G.S. 143-15.3A.

(b) The State Controller shall transfer funds from the unreserved credit balance to the Savings Reserve Account in accordance with G.S. 143-15.3(a).

(c) The State Controller shall transfer funds from the unreserved credit balance to the Repairs and Renovation Reserve Account in accordance with G.S. 143-15.3A(a).

~~(d) The State Controller shall transfer funds from the unreserved credit balance to the Clean Water Management Trust Fund in accordance with G.S. 143-15.3B(a).~~

(e) The General Assembly may appropriate that part of the anticipated General Fund credit balance not expected to be reserved only for capital improvements or other one-time expenditures."

Section 7.7.(f) G.S. 143-15.3(a) reads as rewritten:

"(a) There is established a Savings Reserve Account as a restricted reserve in the General Fund. The State Controller shall reserve to the Savings Reserve Account one-fourth of any unreserved credit balance remaining in the General Fund at the end of each fiscal year until the account contains funds equal to five percent (5%) of the amount appropriated the preceding year for the General Fund operating budget, including local government tax-sharing funds, that were directly appropriated. In the event that the one-fourth exceeds the amount necessary to reach the five percent (5%) level, only funds necessary to reach that level shall be reserved. If there are insufficient funds in the unreserved credit balance for the Savings Reserve ~~Account, the~~ Account and the Repairs and Renovations Reserve Account, ~~and the Clean Water Management Trust Fund,~~ then the requirements of this section shall be complied with first, and any remaining funds shall be reserved to the Repairs and Renovations Reserve Account, in accordance with ~~G.S. 143-15.3A, and the Clean Water Management Trust Fund, in accordance with G.S. 143-15.3B.~~ G.S. 143-15.3A."

Section 7.7.(g) Except as otherwise provided in this section, this section becomes effective June 30, 2001.

Requested by: Representatives Tolson, Easterling, Redwine, Senators Reeves, Plyler, Perdue, Odom

ELECTRONIC PROCUREMENT

Section 7.8. Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 17. Electronic Procurement in Government.

"§ *143B-472.70. Electronic procurement.*

(a) The Department of Administration and the Office of the State Controller, in conjunction with the Office of Information Technology Services (ITS), the Department of State Auditor, the Department of State Treasurer, The University of North Carolina General Administration, the Community Colleges System Office, and the Department of Public Instruction shall collaborate to develop electronic or digital procurement standards.

(b) The Department of Administration, in conjunction with the Office of the State Controller and the Office of Information Technology Services may, upon request, provide to all State agencies, universities, local school administrative units, and the community colleges, training in the use of the electronic procurement system.

(c) The Office of Information Technology shall act as an Application Service Provider for an electronic procurement system and

shall establish, manage, and operate this electronic procurement system, through State ownership or commercial leasing, in accordance with the requirements and operating standards developed by the Department of Administration, the Office of the State Controller, and ITS.

(d) Nothing in this section modifies existing law relating to procurement between The University of North Carolina, UNC Health Care, local school administrative units, community colleges, and the Department of Administration."

Requested by: Representatives Easterling, Redwine, Senators Reeves, Plyler, Perdue, Odom

DEVELOPMENT AND IMPLEMENTATION OF WEB PORTALS/PUBLIC AGENCY LINKS

Section 7.9. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 11B.

"Electronic Access to State Services.

"*§ 66-58.12. Development and implementation of Web portals; public agency links.*

(a) The Office of Information Technology Services (ITS) shall develop the architecture, requirements, and standards for the development, implementation and operation of one or more centralized Web portals that will allow persons to access State government services on a 24-hour basis. ITS shall submit its plan for the implementation of the Web portals to the Information Resource Management Commission (IRMC) for its review and approval. When the plan is approved by the IRMC, ITS shall move forward with development and implementation of the statewide Web Portal system.

(b) Each State department, agency, and institution under the review of the IRMC shall functionally link its Internet or electronic services to a centralized Web portal system established pursuant to subsection (a) of this section."

Requested by: Representatives Easterling, Redwine, Senators Hagan, Plyler, Perdue, Odom

DATE LABELS FOR MEAT/POULTRY/SEAFOOD

Section 7.10. G.S. 106-130 is amended by adding a new subdivision to read:

"*§ 106-130. Foods deemed misbranded.*

A food shall be deemed to be misbranded:

. . .

(15) If the labeling provided by the manufacturer, packer, distributor, or retailer on meat, meat products, poultry, or seafood includes a 'sell-by' date or other indicator of a last recommended day of sale, and the date has been removed, obscured, or altered by any person other than the customer. This subdivision does not prohibit the removal of a label for the purpose of repackaging and relabeling a

food item so long as the new package or new label does not bear a 'sell-by' date or other indicator of a last recommended day of sale later than the original package. This subdivision does not prohibit relabeling of meat, meat products, poultry, or seafood that has had its shelf life extended through freezing, cooking, or other additional processing that extends the shelf life of the product."

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom, Hartsell

TRAINING FOR MEMBERS OF THE PROPERTY TAX COMMISSION

Section 7.11. G.S. 105-288(d) reads as rewritten:

"(d) Expenses. -- The members of the Property Tax Commission shall receive travel and subsistence expenses in accordance with G.S. 138-5 and a salary of two hundred dollars ($200.00) a day when hearing ~~cases.~~ cases, meeting to decide cases, and attending training or continuing education classes on property taxes or judicial procedure. The Secretary of Revenue shall supply all the clerical and other services required by the Commission. All expenses of the Commission and the Department of Revenue in performing the duties enumerated in this Article shall be paid as provided in G.S. 105-501."

PART VIII. PUBLIC SCHOOLS

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

EXPENDITURE OF FUNDS TO IMPROVE STUDENT ACCOUNTABILITY

Section 8. Section 8.17 of S.L. 1999-237 reads as rewritten:

"Section 8.17. (a) Funds appropriated for the ~~1999-2001 fiscal biennium~~ 2000-2001 fiscal year for Student Accountability Standards shall be used to assist students in performing at or above grade level in reading and mathematics in grades 3-8 as measured by the State's end-of-grade tests. The State Board of Education shall allocate these funds to local school administrative units based on the number of students who score at Level I or Level II on either reading or mathematics end-of-grade tests in grades 3-8. Funds in this allocation category shall be ~~spent only~~ used to improve the academic performance of ~~children~~ (i) students who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and ~~children~~ (ii) students who are performing at Level I or II on the writing tests in grades 4 and 7. These funds may also be used to improve the academic performance of students who are performing at Level I or II on the high school end-of-course tests. These funds shall not be transferred to other allocation categories or otherwise used for other purposes. Except as otherwise provided by law, local boards of education may transfer other funds available to them into this allocation category.

The principal of a school receiving these funds, in consultation with the faculty and the site-based management team, shall implement plans for expending these funds to improve the performance of students.

Continuation budget funds previously appropriated for NC Helps and for the middle school pilot project shall be transferred to this allocation category.

Local boards of education are encouraged to use federal funds such as Goals 2000 and Title I Comprehensive School Reform Development Funds and to examine the use of State funds to ensure that every student is performing at or above grade level in reading and mathematics.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to the convening of the 2000 Regular Session of the General Assembly on the implementation of this section. The report may include recommendations regarding the transfer of other funds into this allocation category.

Section 8.17.(b) Funds appropriated for Student Accountability Standards shall not revert at the end of each fiscal year but shall remain available for expenditure until August 31 of the subsequent fiscal year."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

USE OF STAFF DEVELOPMENT FUNDS MENTOR TRAINING

Section 8.1. G.S. 115C-105.27 reads as rewritten:

"§ *115C-105.27. Development and approval of school improvement plans.*

In order to improve student performance, each school shall develop a school improvement plan that takes into consideration the annual performance goal for that school that is set by the State Board under G.S. 115C-105.35. The principal of each school, representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building, and parents of children enrolled in the school shall constitute a school improvement team to develop a school improvement plan to improve student performance. Representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants shall be elected by their respective groups by secret ballot. Unless the local board of education has adopted an election policy, parents shall be elected by parents of children enrolled in the school in an election conducted by the parent and teacher organization of the school or, if none exists, by the largest organization of parents formed for this purpose. Parents serving on school improvement teams shall reflect the racial and socioeconomic composition of the students enrolled in that school and shall not be members of the building-level staff. Parental involvement is a critical component of school success and positive student achievement; therefore, it is the intent of the General Assembly that parents, along with teachers, have a substantial role in developing school improvement plans. To this end, school

improvement team meetings shall be held at a convenient time to assure substantial parent participation. The strategies for improving student ~~performance shall~~ performance:

(1) Shall include a plan for the use of staff development funds that may be made available to the school by the local board of education to implement the school improvement ~~plan and shall~~ plan. The plan may provide that a portion of these funds is used for mentor training and for release time and substitute teachers while mentors and teachers mentored are meeting;

(2) Shall include a plan to address school safety and discipline concerns in accordance with the safe school plan developed under Article 8C of this ~~Chapter. The strategies may~~ Chapter;

(3) May include a decision to use State funds in accordance with ~~G.S. 115C-105.25. The strategies for improving student performance shall~~ G.S. 115C-105.25;

(4) Shall include a plan that specifies the effective instructional practices and methods to be used to improve the academic performance of students identified as at risk of academic failure or at risk of dropping out of ~~school. The strategies may also~~ school;

(5) May include requests for waivers of State laws, rules, or policies for that school. A request for a waiver shall meet the requirements of G.S. 115C-105.26.

Support among affected staff members is essential to successful implementation of a school improvement plan to address improved student performance at that school. The principal of the school shall present the proposed school improvement plan to all of the principals, assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building for their review and vote. The vote shall be by secret ballot. The principal shall submit the school improvement plan to the local board of education only if the proposed school improvement plan has the approval of a majority of the staff who voted on the plan.

The local board of education shall accept or reject the school improvement plan. The local board shall not make any substantive changes in any school improvement plan that it accepts. If the local board rejects a school improvement plan, the local board shall state with specificity its reasons for rejecting the plan; the school improvement team may then prepare another plan, present it to the principals, assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building for a vote, and submit it to the local board to accept or reject. If no school improvement plan is accepted for a school within 60 days after its initial submission to the local board, the school or the local board may ask to use the process to resolve disagreements recommended in the guidelines developed by the State Board under G.S. 115C-105.20(b)(5). If this request is made, both the school and

local board shall participate in the process to resolve disagreements. If there is no request to use that process, then the local board may develop a school improvement plan for the school. The General Assembly urges the local board to utilize the school's proposed school improvement plan to the maximum extent possible when developing such a plan.

A school improvement plan shall remain in effect for no more than three years; however, the school improvement team may amend the plan as often as is necessary or appropriate. If, at any time, any part of a school improvement plan becomes unlawful or the local board finds that a school improvement plan is impeding student performance at a school, the local board may vacate the relevant portion of the plan and may direct the school to revise that portion. The procedures set out in this subsection shall apply to amendments and revisions to school improvement plans."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

EXCEPTIONAL CHILDREN

Section 8.2. The funds appropriated for exceptional children for the 2000-2001 fiscal year shall be allocated as follows:

(1) Each local school administrative unit shall receive for academically or intellectually gifted children the sum of eight hundred forty-three dollars and fifty-nine cents ($843.59) per child for four percent (4%) of the 2000-2001 allocated average daily membership in the local school administrative unit, regardless of the number of children identified as academically or intellectually gifted in the local school administrative unit. The total number of children for which funds shall be allocated pursuant to this subdivision is 51,542 for the 2000-2001 school year.

(2) Each local school administrative unit shall receive for children with special needs the sum of two thousand five hundred forty-nine dollars and seventy-four cents ($2,549.74) per child for the lesser of (i) all children who are identified as children with special needs or (ii) twelve and five-tenths percent (12.5%) of the 2000-2001 allocated average daily membership in the local school administrative unit. The maximum number of children for which funds shall be allocated pursuant to this subdivision is 156,296 for the 2000-2001 school year.

The dollar amounts allocated under this section for exceptional children shall also increase in accordance with legislative salary increments for personnel who serve exceptional children.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

LIMITED ENGLISH PROFICIENCY

Section 8.3. Section 8.10 of S.L. 1999-237 reads as rewritten:

"Section 8.10. The State Board of Education shall develop guidelines for identifying and providing services to students with limited proficiency in the English language.

The State Board shall allocate these funds to local school administrative units and to charter schools under a formula that takes into account the average percentage of students in the units or the charters over the past three years who have limited English proficiency. If data for the prior three years are not available, the State Board shall use the most recent reliable data. The State Board shall allocate funds to a unit or a charter school only if (i) average daily membership of the unit or the charter school includes at least 20 students with limited English proficiency or (ii) students with limited English proficiency comprise at least two and one-half percent (2 1/2%) of the average daily membership of the unit or charter school. ~~No unit or charter school shall receive funds for more than~~ For the portion of the funds that is allocated on the basis of the number of identified students, the maximum number of identified students for whom a unit or charter school receives funds shall not exceed ten and six-tenths percent (10.6%) of its average daily membership.

Local school administrative units shall use funds allocated to them to pay for classroom teachers, teacher assistants, tutors, textbooks, classroom materials/instructional supplies/equipment, transportation costs, and staff development for students with limited English proficiency.

A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

EXCEPTIONAL CHILDREN HEAD COUNT

Section 8.4. The Commission on Children with Special Needs shall study the issue of when the head count of children with special needs should be performed and whether a single head count during a school year is adequate. The Commission shall report the results of its study to the 2001 General Assembly.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

REDUCE IMPACT OF SIGNIFICANT REDUCTIONS IN ADM IN SMALL SCHOOL SYSTEMS

Section 8.5. If a county school administrative unit with 3,000 or fewer students experiences a greater than four percent (4%) loss in projected average daily membership due to shifts of enrollment to charter schools located within the unit, the State Board of Education may use funds appropriated to State Aid to Local School Administrative Units for the 2000-2001 fiscal year to reduce the loss of funds to the unit's schools, other than charter schools, to a maximum of four percent (4%).

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom
FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW STUDENT INFORMATION SYSTEM

Section 8.6. The State Board of Education may transfer up to one million dollars ($1,000,000) in funds appropriated for the Uniform Education Reporting System for the 2000-2001 fiscal year to the Department of Public Instruction to lease or purchase equipment necessary for the testing and implementation of NC WISE, the new student information system in the public schools.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom
USES OF THE ADM RESERVE

Section 8.7. If a local school administrative unit has inadequate resources due to (i) the establishment of a new charter school or (ii) authorization from the State Board of Education to increase the enrollment of an existing charter school by more than ten percent (10%), the State Board of Education may allocate additional funds to the unit from the Reserve for Average Daily Membership Adjustment. The State Board shall develop policies for the implementation of this section.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom
CLASS-SIZE COMPUTATION FOR K-2

Section 8.8. Local school administrative units shall use teacher positions allocated for kindergarten through second grade (i) to hire classroom teachers and reading teachers for children in kindergarten through second grade and (ii) to otherwise reduce the student-teacher ratio in kindergarten through second grade.

Notwithstanding the provisions of G.S. 115C-301(c), both the maximum average class size for the grade span kindergarten, first grade, and second grade, and the maximum size of an individual class within the grade span shall be 26 students.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom
LITIGATION RESERVE

Section 8.9.(a) Funds in the State Board of Education's Litigation Reserve that are not expended or encumbered on June 30, 2000, shall not revert on July 1, 2000, but shall remain available for expenditure until June 30, 2001.

Section 8.9.(b) Subsection (a) of this section becomes effective June 30, 2000.

Section 8.9.(c) The State Board of Education may expend up to five hundred thousand dollars ($500,000) for the 2000-2001 fiscal year from unexpended funds for certified employees' salaries to pay expenses related to pending litigation.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

TEACHER SALARY SCHEDULES

Section 8.10.(a) Effective for the 2000-2001 school year, the Director of the Budget may transfer from the Reserve for Compensation Increase for the 2000-2001 fiscal year funds necessary to implement the teacher salary schedule set out in subsection (b) of this section, including funds for the employer's retirement and social security contributions and funds for annual longevity payments at one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service, commencing July 1, 2000, for all teachers whose salaries are supported from the State's General Fund. These funds shall be allocated to individuals according to rules adopted by the State Board of Education. The longevity payment shall be paid in a lump sum once a year.

Section 8.10.(b) For the 2000-2001 school year, the following monthly salary schedules shall apply to certified personnel of the public schools who are classified as teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

2000-2001 Monthly Salary Schedule
"A" Teachers

Years of Experience	"A" Teachers	NBPTS Certification
0	$2,500	N/A
1	$2,542	N/A
2	$2,585	N/A
3	$2,737	$3,065
4	$2,875	$3,220
5	$3,006	$3,366
6	$3,133	$3,508
7	$3,234	$3,622
8	$3,281	$3,674
9	$3,329	$3,728
10	$3,378	$3,783
11	$3,427	$3,838
12	$3,476	$3,893
13	$3,526	$3,949
14	$3,578	$4,007
15	$3,631	$4,066
16	$3,685	$4,127
17	$3,740	$4,188
18	$3,796	$4,251

19	$3,853	$4,315
20	$3,911	$4,380
21	$3,971	$4,447
22	$4,032	$4,515
23	$4,095	$4,586
24	$4,158	$4,656
25	$4,222	$4,728
26	$4,287	$4,801
27	$4,354	$4,876
28	$4,423	$4,953
29+	$4,493	$5,032

2000-2001 Monthly Salary Schedule
"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
0	$2,750	N/A
1	$2,796	N/A
2	$2,844	N/A
3	$3,011	$3,372
4	$3,163	$3,542
5	$3,307	$3,703
6	$3,446	$3,859
7	$3,557	$3,983
8	$3,609	$4,042
9	$3,662	$4,101
10	$3,716	$4,161
11	$3,770	$4,222
12	$3,824	$4,282
13	$3,879	$4,344
14	$3,936	$4,408
15	$3,994	$4,473
16	$4,054	$4,540
17	$4,114	$4,607
18	$4,176	$4,677
19	$4,238	$4,746
20	$4,302	$4,818
21	$4,368	$4,892
22	$4,435	$4,967
23	$4,505	$5,045
24	$4,574	$5,122
25	$4,644	$5,201
26	$4,716	$5,281
27	$4,789	$5,363
28	$4,865	$5,448
29+	$4,942	$5,535

Section 8.10.(b1) Certified public school teachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public school teachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

Section 8.10.(c) Effective for the 2000-2001 school year, the first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified psychologists.

Section 8.10.(d) Effective for the 2000-2001 school year, speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

Section 8.10.(e) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

SCHOOL-BASED ADMINISTRATOR SALARIES

Section 8.11.(a) Funds appropriated to the Reserve for Compensation Increase shall be used for the implementation of the salary schedule for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

Section 8.11.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2000-2001 fiscal year, commencing July 1, 2000, is as follows:

2000-2001
Principal and Assistant Principal Salary Schedules

		Classification			
Yrs of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	$3,195				
5	$3,340				
6	$3,480				
7	$3,593				
8	$3,645	$3,645			
9	$3,699	$3,699			
10	$3,753	$3,753	$3,808		
11	$3,808	$3,808	$3,862		
12	$3,862	$3,862	$3,918	$3,975	
13	$3,918	$3,918	$3,975	$4,034	$4,095
14	$3,975	$3,975	$4,034	$4,095	$4,155
15	$4,034	$4,034	$4,095	$4,155	$4,218
16	$4,095	$4,095	$4,155	$4,218	$4,280
17	$4,155	$4,155	$4,218	$4,280	$4,345
18	$4,218	$4,218	$4,280	$4,345	$4,412
19	$4,280	$4,280	$4,345	$4,412	$4,479
20	$4,345	$4,345	$4,412	$4,479	$4,550
21	$4,412	$4,412	$4,479	$4,550	$4,620
22	$4,479	$4,479	$4,550	$4,620	$4,690
23	$4,550	$4,550	$4,620	$4,690	$4,763
24	$4,620	$4,620	$4,690	$4,763	$4,837
25	$4,690	$4,690	$4,763	$4,837	$4,914
26	$4,763	$4,763	$4,837	$4,914	$4,991
27	$4,837	$4,837	$4,914	$4,991	$5,091
28	$4,914	$4,914	$4,991	$5,091	$5,193
29	$4,991	$4,991	$5,091	$5,193	$5,297
30	$5,091	$5,091	$5,193	$5,297	$5,403
31	$5,193	$5,193	$5,297	$5,403	$5,511
32		$5,297	$5,403	$5,511	$5,621
33			$5,511	$5,621	$5,733
34			$5,621	$5,733	$5,848
35				$5,848	$5,965

36			$5,965	$6,084
37				$6,206

2000-2001
Principal and Assistant Principal Salary Schedules

	Classification			
Yrs of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
14	$4,218			
15	$4,280			
16	$4,345	$4,412		
17	$4,412	$4,479	$4,620	
18	$4,479	$4,550	$4,690	$4,763
19	$4,550	$4,620	$4,763	$4,837
20	$4,620	$4,690	$4,837	$4,914
21	$4,690	$4,763	$4,914	$4,991
22	$4,763	$4,837	$4,991	$5,091
23	$4,837	$4,914	$5,091	$5,193
24	$4,914	$4,991	$5,193	$5,297
25	$4,991	$5,091	$5,297	$5,403
26	$5,091	$5,193	$5,403	$5,511
27	$5,193	$5,297	$5,511	$5,621
28	$5,297	$5,403	$5,621	$5,733
29	$5,403	$5,511	$5,733	$5,848
30	$5,511	$5,621	$5,848	$5,965
31	$5,621	$5,733	$5,965	$6,084
32	$5,733	$5,848	$6,084	$6,206
33	$5,848	$5,965	$6,206	$6,330
34	$5,965	$6,084	$6,330	$6,457
35	$6,084	$6,206	$6,457	$6,586
36	$6,206	$6,330	$6,586	$6,718
37	$6,330	$6,457	$6,718	$6,852
38	$6,457	$6,586	$6,852	$6,989
39		$6,718	$6,989	$7,129
40		$6,852	$7,129	$7,272
41			$7,272	$7,417

Section 8.11.(c) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools, shall be determined in accordance with the following schedule:

Classification	**Number of Teachers Supervised**
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers

Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

Section 8.11.(d) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal.

Section 8.11.(e) For the 2000-2001 fiscal year, a principal or assistant principal shall be placed on the appropriate step plus one percent (1%) if:

(1) The employee's school met or exceeded the projected levels of improvement in student performance for the 1997-98 fiscal year, in accordance with the ABCs of Public Education Program;

(2) The local board of education found in 1997-98 that the employee's school met objectively measurable goals set by the local board of education for maintaining a safe and orderly school;

(3) The employee's school met or exceeded the projected levels of improvement in student performance for the 1998-99 fiscal year, in accordance with the ABCs of Public Education Program;

(4) The local board of education found in 1998-99 that the employee's school met objectively measurable goals set by the local board of education for maintaining a safe and orderly school;

(5) The employee's school met or exceeded the projected levels of improvement in student performance for the 1999-2000 fiscal year, in accordance with the ABCs of Public Education Program; or

(6) The local board of education found in 1999-2000 that the employee's school met objectively measurable goals set by the local board of education for maintaining a safe and orderly school.

The principal or assistant principal shall be placed on the appropriate step plus an additional one percent (1%) for meeting each additional condition set out in subdivisions (1) through (6). Under no circumstance shall placement of a principal or assistant principal be

higher than six percent (6%) above the appropriate step on the salary schedule.

Section 8.11.(f) For the 2000-2001 fiscal year, a principal or assistant principal shall receive a lump-sum payment of:

(1) One percent (1%) of his or her State-paid salary if the employee's school meets or exceeds the projected levels of improvement in student performance for the 2000-2001 fiscal year, in accordance with the ABCs of Public Education Program.

(2) One percent (1%) of his or her State-paid salary if the local board of education finds that the employee's school has met the 2000-2001 goals of the local plan for maintaining a safe and orderly school.

The principal or assistant principal shall receive a lump-sum payment of two percent (2%) if the conditions set out in both subdivisions (1) and (2) are satisfied.

The lump sum shall be paid as determined by guidelines adopted by the State Board. Except as provided in subsection (l) of this section, placement on the salary schedule in the following year shall be based upon these increases.

Section 8.11.(g) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars ($126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars ($253.00) per month.

Section 8.11.(h) There shall be no State requirement that superintendents in each local school unit shall receive in State-paid salary at least one percent (1%) more than the highest paid principal receives in State salary in that school unit: Provided, however, the additional State-paid salary a superintendent who was employed by a local school administrative unit for the 1992-93 fiscal year received because of that requirement shall not be reduced because of this subsection for subsequent fiscal years that the superintendent is employed by that local school administrative unit so long as the superintendent is entitled to at least that amount of additional State-paid salary under the rules in effect for the 1992-93 fiscal year.

Section 8.11.(i) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

Section 8.11.(j)

(1) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

(2) If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local

school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subdivision applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subdivision for one calendar year following the date of the merger.

Section 8.11.(k) Participants in an approved full-time masters in school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the masters program. Certification of eligible full-time interns shall be supplied to the Department of Public Instruction by the Principal Fellows Program or a school of education where the intern participates in a full-time masters in school administration.

Section 8.11.(l) During the 2000-2001 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher. Lump-sum payments received pursuant to subsection (f) of this section shall not be considered in placing the employee on the salary schedule in subsequent years that the employee is employed under either a provisional or a full certificate.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

SCHOOL CENTRAL OFFICE SALARIES

Section 8.12.(a) The following monthly salary ranges apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2000-2001 fiscal year, beginning July 1, 2000:

School Administrator I	$2,932	$5,214
School Administrator II	$3,112	$5,534
School Administrator III	$3,303	$5,873
School Administrator IV	$3,436	$6,110
School Administrator V	$3,574	$6,358
School Administrator VI	$3,792	$6,747
School Administrator VII	$3,945	$7,020

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee hired on or after July 1, 2000.

Section 8.12.(b) The following monthly salary ranges apply to public school superintendents for the 2000-2001 fiscal year, beginning July 1, 2000:

(1)	Superintendent I (Up to 2,500 ADM)	$4,187	$7,451
(2)	Superintendent II (2,501-5,000 ADM)	$4,445	$7,904
(3)	Superintendent III (5,001-10,000 ADM)	$4,716	$8,389
(4)	Superintendent IV (10,001-25,000 ADM)	$5,005	$8,901
(5)	Superintendent V (Over 25,000 ADM)	$5,312	$9,447

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

Notwithstanding the provisions of this subsection, a local board of education may pay an amount in excess of the applicable range to a superintendent who is entitled to receive the higher amount under Section 8.11(h) of this act.

Section 8.12.(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

Section 8.12.(d) Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for under this section.

Section 8.12.(e) The State Board shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

Section 8.12.(f) The Director of the Budget shall transfer from the Reserve for Compensation Increase created in this act for fiscal year 2000-2001, beginning July 1, 2000, funds necessary to provide an average annual salary increase of four and two-tenths percent (4.2%), including funds for the employer's retirement and social security contributions, commencing July 1, 2000, for all permanent full-time personnel paid from the Central Office Allotment. The State Board of Education shall allocate these funds to local school administrative units. The local boards of education shall establish guidelines for providing their salary increases to these personnel.

Section 8.12.(g) Effective October 1, 2000, any person who was employed on or before April 1, 2000, and who is still employed on October 1, 2000, as a permanent public school employee whose

salary is set by or under this section shall receive a compensation bonus, payable at the end of the employee's first pay date after October 1, 2000, of five hundred dollars ($500.00). For permanent part-time employees, the compensation bonus provided by this section shall be adjusted pro rata. Notwithstanding G.S. 135-1(7a), the compensation bonus provided by this section is not compensation under Article 1 of Chapter 135 of the General Statutes, the Teachers' and State Employees' Retirement System.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

NONCERTIFIED PERSONNEL SALARY FUNDS

Section 8.13.(a) The Director of the Budget may transfer from the Reserve for Compensation Increase created in this act for fiscal year 2000-2001, commencing July 1, 2000, funds necessary to provide a salary increase of four and two-tenths percent (4.2%), including funds for the employer's retirement and social security contributions, commencing July 1, 2000, for all noncertified public school employees, except for teacher assistants, whose salaries are supported from the State's General Fund.

Section 8.13.(b) Except as provided in subsection (c) of this section, local boards of education shall increase the rates of pay for all such employees who were employed for fiscal year 1999-2000 and who continue their employment for fiscal year 2000-2001 by at least four and two-tenths percent (4.2%), commencing July 1, 2000.

Section 8.13.(c) A local board of education may adopt a policy that provides for raises of less than four and two-tenths percent (4.2%) for all such employees who were employed for less than two-thirds of the employment period for fiscal year 1999-2000 and who continue their employment for fiscal year 2000-2001. A local board of education adopting such a policy shall increase the salaries of those employees in accordance with the local policy.

Section 8.13.(d) These funds shall not be used for any purpose other than for the salary increases and necessary employer contributions provided by this section.

Section 8.13.(e) The State Board of Education may adopt salary ranges for noncertified personnel to support increases of four and two-tenths percent (4.2%) for the 2000-2001 fiscal year.

Section 8.13.(f) Effective October 1, 2000, any person who was employed on or before April 1, 2000, and who is still employed on October 1, 2000, as a permanent public school employee whose salary is set by or under this section shall receive a compensation bonus, payable at the end of the employee's first pay date after October 1, 2000, of five hundred dollars ($500.00). For permanent part-time employees, the compensation bonus provided by this section shall be adjusted pro rata. Notwithstanding G.S. 135-1(7a), the compensation bonus provided by this section is not compensation under Article 1 of Chapter 135 of the General Statutes, the Teachers' and State Employees' Retirement System.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Nesbitt, Bonner, Warner, Yongue, Senators Lee, Dalton, Plyler, Perdue, Odom

TEACHER ASSISTANT SALARY SCHEDULE

Section 8.13A.(a) The allotment formula for teacher assistants for the 2000-2001 fiscal year shall be a dollar allotment. Local boards of education shall use these funds to increase the rates of pay for teacher assistants who were employed for fiscal year 1999-2000 and who continue their employment for fiscal year 2000-2001. This increase shall be at least four and two tenths percent (4.2%), commencing July 1, 2000, for all such teacher assistants unless a local board of education adopts a policy that provides for raises of less than four and two tenths percent (4.2%) for all those teacher assistants who were employed for less than two-thirds of the employment period for fiscal year 1999-2000 and who continue their employment for fiscal year 2000-2001. A local board of education adopting such a policy shall increase the salaries of those teacher assistants who were employed for less than two-thirds of the employment period for fiscal year 1999-2000 in accordance with the local policy; that local board shall increase the salaries of those teacher assistants who were employed for two-thirds or more of the employment period for fiscal year 1999-2000 by at least four and two tenths percent (4.2%).

Section 8.13A.(b) Effective October 1, 2000, any person who was employed on or before April 1, 2000, and who is still employed on October 1, 2000, as a permanent public school employee whose salary is set by or under this section shall receive a compensation bonus, payable at the end of the employee's first pay date after October 1, 2000, of five hundred dollars ($500.00). For permanent part-time employees, the compensation bonus provided by this section shall be adjusted pro rata. Notwithstanding G.S. 135-1(7a), the compensation bonus provided by this section is not compensation under Article 1 of Chapter 135 of the General Statutes, the Teachers' and State Employees' Retirement System.

Section 8.13A.(c) Prior to the adoption and implementation of a minimum experience-based salary schedule for teacher assistants, the General Assembly is committed to determining the cost of implementing such a schedule. Such a salary schedule should: (i) be based on a teacher assistant's years of experience as a teacher or teacher assistant in North Carolina's public schools, (ii) reflect an annual increase of a set percentage based on the teacher assistant's years of experience with an experience level maximum of 21 to 30 years, (iii) have a minimum monthly salary of the Office of State Personnel's Pay Grade 56 classification or one thousand three hundred eighty dollars ($1,380) whichever is less, and (iv) include incremental increases for teacher assistants for educational certification and degree standards.

The State Board of Education shall develop a proposed salary schedule that reflects the above conditions. The State Board also must assure that the schedule meets guidelines of the federal wage and hour

laws, meets the needs of public schools regarding flexible use of teacher assistant resources, minimizes the administrative burden on local boards of education and the Department of Public Instruction to implement the schedule, and assures that the schedule can be implemented consistently in all public schools. The State Board of Education shall report to the Joint Legislative Education Oversight Committee by December 11, 2000, on its recommendations regarding the Teacher Assistant Salary Schedule and the costs of implementation.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

FUNDS TO IMPLEMENT THE ABCs OF PUBLIC EDUCATION PROGRAM

Section 8.14. The State Board of Education shall use funds appropriated for State Aid to Local School Administrative Units for the 1999-2000 fiscal year and the 2000-2001 fiscal year to provide incentive funding for schools that met or exceeded the projected levels of improvement in student performance during the 1999-2000 school year, in accordance with the ABCs of Public Education Program. In accordance with State Board of Education policy:

(1) Incentive awards in schools that achieve higher than expected improvements may be up to:
   a. $1,500 for each teacher and for certified personnel; and
   b. $500.00 for each teacher assistant.
(2) Incentive awards in schools that meet the expected improvements may be up to:
   a. $750.00 for each teacher and for certified personnel; and
   b. $375.00 for each teacher assistant.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

Section 8.15. Section 8.5(b) of S.L. 1999-237 reads as rewritten:

"Section 8.5.(b) Use of Funds for Supplemental Funding. -- All funds received pursuant to this section shall be used only (i) to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, school computer technicians, instructional supplies and equipment, staff development, and textbooks, and (ii) for salary supplements for instructional personnel and instructional support personnel.

Local boards of education are encouraged to use at least ~~twenty percent (20%)~~ twenty-five percent (25%) of the funds received pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to the State Board of Education

on an annual basis on funds used for this purpose, and the State Board shall report this information to the Joint Legislative Education Oversight Committee."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS CERTIFICATION

Section 8.16. Chapter 115C of the General Statutes is amended by adding a new section to read:

"*§ 115C-296.2. National Board for Professional Teaching Standards Certification.*

(a) State Policy. -- It is the goal of the State to provide opportunities and incentives for good teachers to become excellent teachers and to retain them in the teaching profession; to attain this goal, the State shall support the efforts of teachers to achieve national certification by providing approved paid leave time for teachers participating in the process, paying the participation fee, and paying a significant salary differential to teachers who attain national certification from the National Board for Professional Teaching Standards (NBPTS).

The National Board for Professional Teaching Standards (NBPTS) was established in 1987 as an independent, nonprofit organization to establish high standards for teachers' knowledge and performance and for development and operation of a national voluntary system to assess and certify teachers who meet those standards. Participation in the program gives teachers the time and the opportunity to analyze in a systematic way their professional development as teachers, successful teaching strategies, and the substantive areas in which they teach. Participation also gives teachers an opportunity to demonstrate superior ability and to be compensated as superior teachers. To receive NBPTS certification, a teacher must successfully (i) complete a process of developing a portfolio of student work and videotapes of teaching and learning activities and (ii) participate in NBPTS assessment center simulation exercises, including performance-based activities and a content knowledge examination.

(b) Definitions. -- As used in this subsection:

(1) A 'North Carolina public school' is a school operated by a local board of education, the Department of Health and Human Services, the Department of Correction, the Office of Juvenile Justice or The University of North Carolina; a school affiliated with The University of North Carolina; or a charter school approved by the State Board of Education.

(2) A 'teacher' is a person who:

a. Either:

1. Is certified to teach in North Carolina; or

2. Holds a certificate or license issued by the State Board of Education that meets the professional license requirement for NBPTS certification;

b. Is a State-paid employee of a North Carolina public school;

c. Is paid on the teacher salary schedule; and

d. Spends at least seventy percent (70%) of his or her work time:

1. In classroom instruction, if the employee is employed as a teacher. Most of the teacher's remaining time shall be spent in one or more of the following: mentoring teachers, doing demonstration lessons for teachers, writing curricula, developing and leading staff development programs for teachers; or

2. In work within the employee's area of certification or licensure, if the employee is employed in an area of NBPTS certification other than direct classroom instruction.

(c) Payment of the NBPTS Participation Fee; Paid Leave. -- The State shall pay the NBPTS participation fee and shall provide up to three days of approved paid leave to all teachers participating in the NBPTS program who:

(1) Have completed three full years of teaching in a North Carolina public school; and

(2) Have (i) not previously received State funds for participating in any certification area in the NBPTS program, (ii) repaid any State funds previously received for the NBPTS certification process, or (iii) received a waiver of repayment from the State Board of Education.

Teachers participating in the program shall take paid leave only with the approval of their supervisors.

(d) Repayment by a Teacher Who Does Not Complete the Process. -- A teacher for whom the State pays the participation fee who does not complete the process shall repay the certification fee to the State.

Repayment is not required if a teacher does not complete the process due to the death or disability of the teacher. Upon the application of the teacher, the State Board of Education may waive the repayment requirement if the State Board finds that the teacher was unable to complete the process due to the illness of the teacher, the death or catastrophic illness of a member of the teacher's immediate family, parental leave to care for a newborn or newly adopted child, or other extraordinary circumstances.

(e) Repayment by a Teacher Who Does Not Teach for a Year After Completing the Process. -- A teacher for whom the State pays the participation fee who does not teach for a year in a North Carolina public school after completing the process shall repay the certification fee to the State.

Repayment is not required if a teacher does not teach in a North Carolina public school for at least one year after completing the process due to the death or disability of the teacher. Upon the application of the teacher, the State Board of Education may extend the time before which a teacher must either teach for a year or repay the

participation fee if the State Board finds that the teacher is unable to teach the next year due to the illness of the teacher, the death or catastrophic illness of a member of the teacher's immediate family, parental leave to care for a newborn or newly adopted child, or other extraordinary circumstances.

(f) Rules. -- The State Board shall adopt policies and guidelines to implement this section."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

ALLOCATION OF CENTRAL OFFICE ADMINISTRATION FUNDS

Section 8.17. Expansion budget funds appropriated to State Aid to Local School Administrative Units for the 2000-2001 fiscal year for Central Office Administration shall be used to ensure that every local school administrative unit receives the amount calculated under the State Board of Education's distribution formula used for allocation of these funds.

Requested by: Representatives Rogers, Oldham, Boyd-McIntyre, Easterling, Redwine, Nesbitt, Senators Lee, Dalton, Plyler, Perdue, Odom

REDUCTION OF PAPERWORK IN PUBLIC SCHOOLS

Section 8.18.(a) G.S. 115C-307(g) reads as rewritten:

"(g) To Make Required Reports. -- ~~Every teacher of a public school shall make such reports as are~~ A teacher shall make all reports required by the ~~boards of education, and the~~ local board of education. The superintendent shall not approve the ~~vouchers for the pay of teachers~~ voucher for a teacher's pay until the required monthly and annual reports are ~~made: Provided, that the superintendents may require teachers~~ made.

The superintendent may require a teacher to make reports to the ~~principals.~~ principal.

A teacher shall be given access to the information in the student information management system to expedite the process of preparing reports or otherwise providing information. A teacher shall not be required by the local board, the superintendent, or the principal to (i) provide information that is already available on the student information management system; (ii) provide the same written information more than once during a school year unless the information has changed during the ensuing period; or (iii) complete forms, for children with disabilities, that are not necessary to ensure compliance with the federal Individuals with Disabilities Education Act (IDEA). Notwithstanding the forgoing, a local board may require information available on its student information management system or require the same information twice if the local board can demonstrate a compelling need and can demonstrate there is not a more expeditious manner of getting the information.

~~Provided further, that any~~ Any teacher who knowingly and willfully makes or procures another to make any false report or records,

requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of their duties, shall be guilty of a Class 1 misdemeanor and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction."

Section 8.18.(b) G.S. 115C-47(18) reads as rewritten:

"(18) To Make Rules Concerning the Conduct and Duties of Personnel. -- Local boards of education, upon the recommendation of the superintendent, shall have full power to make all just and needful rules and regulations governing the conduct of teachers, principals, and supervisors, the kind of reports they shall make, and their duties in the care of school property.

Prior to the beginning of each school year, each local board of education shall identify all reports, including local school required reports, that are required at the local level for the school ~~year.~~ year and shall, to the maximum extent possible, eliminate any duplicate or obsolete reporting requirements. No additional reports shall be required at the local level after the beginning of the school year without the prior approval of the local board of education.

Each local board of education shall appoint a person or establish a paperwork control committee to monitor all reports and other paperwork produced by or required by the central office."

Section 8.18.(c) The State Board of Education shall:

(1) Review requirements for reports from local school administrative units and, to the extent possible, eliminate any duplicate or obsolete reporting requirements;

(2) Develop a plan for the implementation of a paperless student information management system prior to the 2005-2006 school year and request funds necessary for the implementation of the system;

(3) Work with the United States Department of Education to standardize all compliance requirements of the federal Individuals with Disabilities Education Act (IDEA) and review and simplify the paperwork established by the Department of Public Instruction to verify compliance with this law;

(4) Study the amount of State and local funds expended to meet compliance standards established under IDEA and State law;

(5) Develop a plan to cut spending for compliance issues related to special education by fifty percent (50%) for the 2001-2002 fiscal year without jeopardizing procedural safeguards under federal IDEA. Any savings should be directed to services for children with special needs; and

(6) Develop a plan to fund compliance issues related to special education only with federal funds provided specifically for that purpose for the 2002-2003 fiscal year and to eliminate all State funding for compliance issues.

The State Board shall report to the Joint Legislative Education Oversight Committee prior to December 15, 2001, on its and the school systems' progress with implementing this section.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Metcalf, Carter, Soles, Plyler, Perdue, Odom

SCHOOL LEADERSHIP PILOT PROJECT

Section 8.19. Local school administrative units that participate in the School Leadership Pilot Project of the Center for Leadership in School Reform shall receive State funds for this purpose for no more than three fiscal years.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

HIGH SCHOOL EXIT EXAMS

Section 8.21. Of the funds appropriated to State Aid to Local School Administrative Units, the State Board of Education may use up to three million dollars ($3,000,000) for the 2000-2001 fiscal year to:

(1) Continue to develop a high school exit examination;
(2) Develop the computer skills test;
(3) Purchase equipment for scoring tests and for ABCs reporting; and
(4) Retest for standards and assessments and for revisions to the science and English language arts tests.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

GUIDELINES FOR CHARTER SCHOOL EXPANDED ENROLLMENT

Section 8.23. G.S. 115C-238.29D(d) reads as rewritten:

"(d) The State Board of Education may grant the initial charter for a period not to exceed five years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed five years each. A material revision of the provisions of a charter application shall be made only upon the approval of the State Board of Education. Beginning with the charter school's second year of operation and annually thereafter, the State Board shall allow a charter school to increase its enrollment by ten percent (10%) of the school's previous year's enrollment or as is otherwise provided in the charter. This enrollment growth shall not be considered a material revision of the charter application and shall not require the prior approval of the State Board.

An enrollment growth of greater than ten percent (10%) shall be considered a material revision of the charter application. The State

Board may approve an enrollment growth of greater than ten percent (10%) only if the State Board finds that:

(1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized enrollment;

(2) The charter school has commitments for ninety percent (90%) of the requested maximum growth;

(3) The board of education of the local school administrative unit in which the charter school is located has had an opportunity to be heard by the State Board of Education on any adverse impact the proposed growth would have on the unit's ability to provide a sound basic education to its students;

(4) The charter school is not currently identified as low-performing;

(5) The charter school meets generally accepted standards of fiscal management; and

(6) It is otherwise appropriate to approve the enrollment growth."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

ENCOURAGE RETIRED TEACHERS TO RETURN TO THE CLASSROOM

Section 8.24.(a) G.S. 135-3(8)c., as amended by Section 28.24(a) of S.L. 1998-212, reads as rewritten:

"c. **(Effective until July 1, 2003)** Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed, or otherwise engaged to perform services, by an employer participating in the Retirement System on a part-time, temporary, interim, or on a fee-for-service basis, whether contractual or otherwise, and if such beneficiary earns an amount in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars ($20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision, G.S 135-3(8)c., who has been retired at least 12 months and has not been employed in any capacity, except as a substitute teacher, with a public school for at least 12 ~~months,~~ months immediately preceding the effective date of reemployment, shall not include earnings ~~while:~~

~~1. The beneficiary is employed to teach on a substitute or interim basis, and not on a permanent basis, in a public school;~~

~~2. The beneficiary is employed to teach in the teacher's area of certification in a low-performing school. As used in this sub-subdivision, a low-performing school is a public elementary or middle school at which forty-eight percent (48%) or more of the students were below grade level during either of the prior two school years or a public high school identified by the State Board of Education as low-performing. If the designation of low-performing is removed while the beneficiary is employed to teach at the school, the provisions of this sub-subdivision apply for the next two school years after the designation is removed; or~~

~~3. The beneficiary is employed to teach in a public school in the teacher's area of certification in a geographical area in which the State Board of Education determines that there is a shortage of teachers in the beneficiary's area of certification.~~

while the beneficiary is employed to teach on a substitute, interim, or permanent basis in a public school. The Department of Public Instruction shall certify to the Retirement System that a beneficiary is employed to teach by a local school administrative unit under the provisions of this sub-subdivision and as a retired teacher as the term is defined under the provisions of G.S. 115C-325(a)(5a).

Beneficiaries employed under this sub-subdivision are not entitled to any benefits otherwise provided under this Chapter as a result of this period of employment."

Section 8.24.(b) G.S. 115C-325(a)(5a), as enacted by Section 28.24(c) of S.L. 1998-212, reads as rewritten:

"(5a) "Retired teacher" means a beneficiary of the Teachers' and State Employees' Retirement System of North Carolina who has been retired at least 12 months, has not been employed in any capacity, other than as a substitute teacher, with a local board of education for at least 12 ~~months,~~ months immediately preceding the effective date of reemployment, is determined by a local board of education to have had satisfactory performance during the last year of employment by a local board of education, and who is employed to

teach as provided in G.S. 135-3(8)c. A retired teacher shall be treated the same as a probationary teacher except that a retired teacher is not eligible for career status."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

Section 8.25. Section 8.6 of S.L. 1999-237 reads as rewritten:

"Section 8.6.(a) Funds for Small School Systems. -- Except as provided in subsection (b) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of fewer than 3,150 students and (ii) to each county school administrative unit with an average daily membership of from 3,150 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,150 to 4,000 students. The allocation formula shall:

(1) Round all fractions of positions to the next whole position.

(2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four, and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or fewer.

(3) Provide additional program enhancement teachers adequate to offer the standard course of study.

(4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.

(5) Provide a base for the consolidated funds allotment of at least ~~three hundred fifty-five thousand dollars ($355,000),~~ four hundred sixty-six thousand dollars ($466,000) excluding textbooks.

(6) Allot vocational education funds for grade 6 as well as for grades 7-12.

If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fund fully the program, the State Board of Education shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county administrative units."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

PROSPECTIVE TEACHER SCHOLARSHIP LOAN PROGRAM

Section 8.26. Of the funds appropriated for State Aid to Local School Administrative Units, the State Board of Education may use up to five hundred thousand dollars ($500,000) for the 2000-2001 fiscal year to assure that all scholarships awarded under the Prospective Teacher Scholarship Loan Program prior to June 15, 2000, are funded.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senator Martin of Guilford, Lee, Dalton, Plyler, Perdue, Odom

CLOSING THE ACHIEVEMENT GAP

Section 8.28.(a) The State Board of Education (Board) shall study the connection between the identification of minority and at-risk students as students with behavioral or emotional disabilities and the gap in student achievement. As part of this study, the Board shall examine the following:

(1) The criteria used to identify whether a student has a behavioral or emotional disability and requires special education. The study shall determine whether identification and placement decisions of these students are based primarily on valid and objective criteria.
(2) The curricula for these students, to determine whether they are sufficiently rigorous and the teaching methodologies are sound and appropriate.
(3) Utilization of other services, such as mental health, mentoring, and consultation, to improve academic and social success for these students.
(4) Qualifications of teachers who are assigned to teach these students.

The Board shall make an interim report by January 15, 2001, and a final report by May 15, 2001, on the results of this study, including findings and any recommendations, to the Committee on Improving the Academic Achievement of Minority and At-Risk Students (Academic Achievement Committee) and to the Joint Legislative Education Oversight Committee (Education Oversight Committee).

Section 8.28.(b) The Board shall study the underrepresentation of minority and at-risk students in honors classes, advanced placement classes, and academically gifted programs. The Board shall evaluate whether this underrepresentation contributes to the gap in student achievement. In particular, the Board shall examine the criteria used to identify whether a student is eligible for one of these classes or programs. The study shall determine whether identification and placement decisions of these students are based primarily on valid and objective criteria. The Board also shall examine whether low academic expectations or certain instructional practices, such as tracking, contribute to this underrepresentation. The Board shall make an interim report by January 15, 2001, and a

final report by May 15, 2001, on the results of this study, including findings and any recommendations needed to increase representation of students in these programs, to the Committee on Improving the Academic Achievement of Minority and At-Risk Students (Academic Achievement Committee) and to the Joint Legislative Education Oversight Committee (Education Oversight Committee).

Section 8.28.(c) The Board shall design an annual Minority Achievement Report Card to be implemented fully beginning with the 2001-2002 school year. The report card shall be based on data the Board collects from local school administrative units and individual schools. Local school administrative units shall collect, maintain, and submit data needed to prepare the report card. The Board shall establish a baseline in accordance with its plan for the report card. The Board may combine this information with another report, as long as the information reported under this section is readily discernible. The Board shall condense and publicly disseminate the data in a form that can be accessed easily, such as through a web site.

The Board shall report to the Academic Achievement Committee and Education Oversight Committee by November 15, 2000, on the development of the report card under this section.

Section 8.28.(d) The Board shall develop guidelines to enable the formation of a local task force in each local school administrative unit. The purpose of this task force is to advise and work with the local board of education and administration on closing the gap in academic achievement and on developing a collaborative plan for achieving that goal. The guidelines shall provide for the following:

(1) Each local school administrative unit shall have a task force, if appropriate.

(2) Each task force shall be racially diverse and shall include parents, school personnel, and representatives from human service agencies, nonprofit organizations, and the business sector.

The Board shall determine the funding needed to implement these guidelines and shall report this information to the Academic Achievement Committee and the Education Oversight Committee by November 15, 2000.

Section 8.28.(e) The Board shall develop a plan and budget (projecting five-year cost) to:

(1) Provide sufficient staff development activities so as to ensure teachers have the tools needed for success in teaching a diverse student population and interacting with their families. These activities shall include understanding and respecting racial, ethnic, religious, and cultural impact on a child's development and personality.

(2) Provide sufficient funding for Limited English Proficiency (LEP) students.

(3) Translate the State-level forms and basic school information that will be made available to parents or to the general

public into Spanish and include them on the Department of Public Instruction's web site in English and Spanish.

(4) Evaluate the level of funding needed to have LEAs hire translators to work with Spanish-speaking parents and those school personnel whose jobs require regular contact with those parents.

(5) Provide appropriate staff development funds for training in English as Second Language (ESL) methodologies and pedagogy for teachers, administrators, and support personnel.

(6) Review implementation guidelines for student accountability standards and promotion policies for LEP students.

(7) Develop guidelines for evaluating students' instructional portfolios and for waiving test standards for LEP students. In its development of guidelines, the Board shall consider extending the End-of-Grade testing exemption period to more than two years for LEP students, to the extent that this extension does not conflict with federal law or regulation.

The Board shall report to the Academic Achievement Committee and to the Education Oversight Committee on the plan and budget developed under this subsection by November 15, 2000.

Section 8.28.(f) The Board shall develop a plan to establish a hotline to collect complaints alleging disparate treatment of minority students and students from low-income families. In developing the plan, the Board shall give strong consideration to the following:

(1) The establishment of teams to review and categorize the complaints for reporting annually to the General Assembly.

(2) The appropriate number of hotline personnel who speak and understand Spanish.

(3) A mechanism, where warranted, for the Board to respond to and secure an independent and impartial investigation of systemic problems revealed through the complaints.

(4) A procedure for the Board to report individual complaints, unless the person making the complaint requests otherwise, to the appropriate local school administrative unit so that it also may investigate.

(5) The criteria for a local investigation that assures fair and impartial investigation.

(6) Any additional information that is required so that the hotline is fully implemented by the beginning of the 2001-2002 school year.

The Board shall report to the Academic Achievement Committee and to the Education Oversight Committee by November 15, 2000, on the implementation of this subsection. This report may include recommendations and a request for funding to establish the hotline.

Section 8.28.(g) The Board shall report data, to the extent those data are reasonably available, from the 1998-99 and 1999-2000 school years on student suspensions and expulsions. All such data shall be collected and reported beginning with the effective date of this

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act. The report shall show, for each local school administrative unit and by race, gender, and the reason for the suspensions and expulsions, the number of students suspended for less than 11 days, the number of students suspended for more than 10 days, the number of students expelled, and the number of students placed in an alternative program as the result of student conduct which could have led to a suspension or expulsion. Each local school administrative unit shall submit to the Board by October 15, 2000, any information the Board needs to make this report. The Board shall report to the Academic Achievement Committee and to the Education Oversight Committee by January 15, 2001.

Section 8.28.(h) Of the funds appropriated to State Aid to Local School Administrative Units, the State Board of Education may use up to four hundred thousand dollars ($400,000) to implement this section.

Section 8.28.(i) The Education Cabinet, through its Research Council, shall review the findings and recommendations of the State Board of Education required in this section, the results of the consortium of Historically Minority College and University initiative to close the achievement gap, the evaluations and results of the pilot programs of the Department of Health and Human Services required in Section 11.4A of this act, and the results of the pilot programs established pursuant to Section 8.36 of S.L. 1999-237. The Research Council shall report to the Education Cabinet and to the Joint Legislative Education Oversight Committee on the best practices and methodologies identified in the above efforts that are most effective in closing the achievement gap for children of various demographic groups who are performing below grade level. The Research Council and the Education Cabinet shall make recommendations to the Joint Legislative Education Oversight Committee by March 15, 2002, on the most cost-effective methods of improving student achievement among the targeted groups.

Requested by: Representatives Culpepper, Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

TYRRELL COUNTY SCHOOL PAY

Section 8.29. Notwithstanding the provisions of G.S. 115C-302.1, G.S. 115C-316, or any other provision of law, the Tyrrell County Board of Education may elect to pay all or part of its monthly-paid employees every two weeks rather than on a monthly basis.

PART IX. COMMUNITY COLLEGES

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

EXPAND FOCUSED INDUSTRIAL TRAINING PROGRAM

Section 9. The State Board of Community Colleges may expand the scope of the Focused Industrial Training (FIT) Program.

The expanded program may provide customized training programs for manufacturing industries and for companies and industries involved in the design and programming of computers and telecommunications systems.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

STATE BOARD RESERVE ALLOCATIONS

Section 9.1. Section 9.6 of S.L. 1999-237 reads as rewritten:

"Section 9.6.(a) The State Board of Community Colleges shall use funds from the State Board Reserve in the amount of one hundred thousand dollars ($100,000) for each fiscal year to assist small rural low-wealth community colleges with operation and maintenance of plant costs if they need to assist new or expanding industries in their service delivery areas.

Section 9.6.(b) The State Board of Community Colleges shall use funds from the State Board Reserve in the amount of forty thousand dollars ($40,000) for the 1999-2000 fiscal year to support the recruitment activities of the North Carolina Industries for Technical Education (NCITE). NCITE recruits students to community colleges with Heavy Equipment and Transportation Technology Programs in an effort to revitalize those programs.

Section 9.6.(c) The State Board of Community Colleges, in consultation with Cape Fear Community College, Brunswick Community College, and Southeastern Community College, shall use funds from the State Board Reserve in the amount of one hundred thousand dollars ($100,000) for the 1999-2000 fiscal year for planning a Southeastern North Carolina Regional Fire Training Program and twenty thousand dollars ($20,000) for the 1999-2000 fiscal year for other fire training programs.

Section 9.6.(d) The State Board of Community Colleges shall use funds from the State Board Reserve in the amount of seventy-five thousand dollars ($75,000) for the 2000-2001 fiscal year for surveys, research, data collection, and analysis required to implement performance budgeting and improve accountability.

Section 9.6.(e) The State Board of Community Colleges shall use funds from the State Board Reserve in the amount of one hundred thousand dollars ($100,000) for the 2000-2001 fiscal year to provide funds to the Community Colleges System Office to continue development of the virtual learning community."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

REPORT CARD ON TEACHER EDUCATION PROGRAMS/STUDY OF HIGH SCHOOL PROGRAMS

Section 9.2.(a) G.S. 115C-296(b1) reads as rewritten:

"(b1) The State Board of Education shall develop a plan to provide a focused review of teacher education programs and the current process of accrediting these programs in order to ensure that the

programs produce graduates that are well prepared to teach. The plan shall include the development and implementation of a school of education performance report for each teacher education program in North Carolina. The performance report shall include at least the following elements: (i) quality of students entering the schools of education, including the average grade point average and average score on preprofessional skills tests that assess reading, writing, math and other competencies; (ii) graduation rates; (iii) time-to-graduation rates; (iv) average scores of graduates on professional and content area examination for the purpose of certification; (v) percentage of graduates receiving initial certification; (vi) percentage of graduates hired as teachers; (vii) percentage of graduates remaining in teaching for four years; (viii) graduate satisfaction based on a common survey; and (ix) employer satisfaction based on a common survey. The performance reports shall follow a common format. The performance reports shall be submitted ~~annually for the 1998-99, 1999-2000, and 2000-2001 school years. The performance reports shall be submitted biannually thereafter to coincide with the Board of Governors' biannual report institutional effectiveness.~~ annually. The State Board of Education shall develop a plan to be implemented beginning in the 1998-99 school year to reward and sanction approved teacher education programs and masters of education programs and to revoke approval of those programs based on the performance reports and other criteria established by the State Board of Education.

The State Board also shall develop and implement a plan for annual performance reports for all masters degree programs in education and school administration in North Carolina. To the extent it is appropriated, the performance report shall include similar indicators to those developed for the performance report for teacher education programs. The performance reports shall follow a common format.

Both plans for performance reports also shall include a method to provide the annual performance reports to the Board of Governors of The University of North Carolina, the State Board of Education, and the boards of trustees of the independent colleges. The State Board of Education shall review the schools of education performance reports and the performance reports for masters degree programs in education and school administration each year the performance reports are submitted. The State Board shall submit the performance report for the 1999-2000 school year to the Joint Legislative Education Oversight Committee by December 15, 2000. Subsequent performance reports shall be submitted to the Joint Legislative Education Oversight Committee on an annual basis by October 1."

Section 9.2.(b) The General Assembly believes educational programs for high school students should provide student accountability, program accountability, access, and efficiency. Therefore, the Education Cabinet, created under G.S. 116C-1, shall study public school, community college, and university programs offered to high school students. These programs include the cooperative high school program, the adult high school diploma

program, advanced placement courses, honors courses, and university courses offered to high school students. The Cabinet shall do the following:

(1) Examine these programs for overlap.
(2) Consider which education entity is the most appropriate one to offer each program.
(3) Consider distance learning options.
(4) Examine whether there should be tuition waivers for high school students who take courses at community colleges or universities.
(5) Determine whether there should be a minimum age for participation in the adult high school program.
(6) Determine the feasibility, advantages and disadvantages, procedures, and costs for requiring students who participate in the adult high school program to take tests required of high school students taking the same courses.
(7) Evaluate the recent recommendations concerning the cooperative high school program that were made to the Joint Legislative Education Oversight Committee by the State Board of Education and the State Board of Community Colleges. In particular, the Cabinet shall determine whether students should receive weighted credit on their high school transcripts for college level courses taken at community colleges, universities, or colleges, and whether this program is an appropriate venue for developmental courses.

The Cabinet shall report its findings, including any recommendations, to the Joint Legislative Education Oversight Committee by January 8, 2001.

Section 9.2.(c) This section is effective when it becomes law.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

BUDGET REALIGNMENT TO IMPLEMENT REORGANIZATION AUTHORIZED

Section 9.3. Notwithstanding G.S. 143-23 or any other provision of law, the State Board of Community Colleges may transfer funds within the budget of the Community Colleges System Office to the extent necessary to implement the departmental reorganization plan recommended by the President of the North Carolina Community College System and adopted by the State Board in September 1999.

The State Board of Community Colleges shall report on its implementation of this section to the Joint Legislative Education Oversight Committee, the chairs of the Education Appropriations Subcommittees of the House of Representatives and the Senate, and the Fiscal Research Division within 30 days of completion of the budget realignment.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

USE OF 1999-2000 OVER-REALIZED RECEIPTS

Section 9.4.(a) Notwithstanding the provisions of G.S. 115D-31(e), over-realized receipts for the 1999-2000 fiscal year in the amount of two million dollars ($2,000,000) shall be used for the operations of the Community Colleges System Office for the 2000-2001 fiscal year. These funds are used in this act to offset a base budget reduction of an equal amount.

Section 9.4.(b) This section becomes effective June 30, 2000.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Nesbitt, Senators Lee, Dalton, Plyler, Perdue, Odom, Metcalf, Carter

ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE FUNDS DO NOT REVERT

Section 9.5.(a) Funds appropriated to Asheville-Buncombe Technical Community College in S.L. 1999-237 for its Small Business Center shall not revert at the end of the 1999-2000 fiscal year, but shall remain available for expenditure in the 2000-2001 fiscal year.

Section 9.5.(b) This section becomes effective June 30, 2000.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

STUDY DISTANCE LEARNING/EDUCATION PROGRAMS

Section 9.6. The State Board of Community Colleges shall contract with an independent consultant to study funding methods and delivery of distance learning and education programs. Distance learning and education shall include, but not be limited, to telecourses, two-way interactive video, Internet-based courses, and a combination of these technologies.

The study shall include:

(1) An analysis of tuition rates, registration fees, and other related charges for in-State and out-of-state students enrolling in distance course offerings;

(2) A survey of current distance course offerings, delivery systems, and sources of funding, including an assessment of the ability of individual colleges to provide and support distance learning now and in the future; and

(3) A plan for efficient and effective expansion of course offerings and delivery systems to (i) improve workforce education and training, (ii) avoid duplication within the Community College System and with distance learning programs offered by The University of North Carolina, and (iii) promote coordination of distance learning programs among the institutions of the Community College System and The University of North Carolina.

The consultant shall take into account two approaches to distance learning currently being considered by the Community College System. One model emphasizes a regional approach involving

consolidation of equipment and staff at six regional operating centers across the State with all colleges having equal access to a designated center. The other model emphasizes a decentralized approach with a minimum level of distance programs supported at each of the 59 institutions.

The State Board of Community Colleges shall use funds from the State Board Reserve to implement this section.

The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by January 15, 2001, on the results of the study and the recommendations of the consultant.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

PERFORMANCE BUDGETING/CLARIFICATIONS

Section 9.7. G.S. 115D-31.3 reads as rewritten:

"§ *115D-31.3. Performance budgeting.*

(a) Creation of Accountability Measures and Performance Standards. -- The State Board of Community Colleges shall create new accountability measures and performance standards to be used for performance budgeting for the Community College System. ~~The results of a survey may~~ Survey results shall be used as a performance standard only if the survey is statistically valid. The State Board of Community Colleges shall review annually the accountability measures and performance standards to ensure that they are appropriate for use in performance budgeting.

~~(b) Notwithstanding any other provision of law, the State Board shall authorize each institution meeting the new performance standards to carryforward funds remaining in its budget at the end of each fiscal year in an amount not to exceed two percent (2%) of the State funds allocated to the institution for that fiscal year. The funds carried forward shall be used for the purchase of equipment and initial program start-up costs excluding regular faculty salaries. These funds shall not be used for continuing salary increases or for other obligations beyond the fiscal year into which they were carried forward. These funds shall be encumbered within 12 months of the fiscal year into which they were carried forward.~~

~~(c) The five required performance measures are (i) progress of basic skills students, (ii) passing rate for licensure and certification examinations, (iii) goal completion of program completers, (iv) employment status of graduates, and (v) performance of students who transfer to the university system. Colleges may choose one other performance measure from the list contained in the State Board's Phase 4 Funding Formula Study, which was presented to the Joint Legislative Education Oversight Committee. Successful performance on each of the six performance measures shall allow a college to retain and carry forward up to one-third of one percent (1/3 of 1%) of its final fiscal year General Fund appropriations into the next fiscal year.~~

~~(d) Each college shall publish its performance on these six measures in its catalog each year beginning with the 2001 academic year.~~

(e) Mandatory Performance Measures. -- The State Board of Community Colleges shall evaluate each college on the following 12 performance standards:

(1) Progress of basic skills students,
(2) Passing rate for licensure and certification examinations,
(3) Goal completion of program completers and noncompleters,
(4) Employment status of graduates,
(5) Performance of students who transfer to the university system,
(6) Passing rates in developmental courses,
(7) Success rates of developmental students in subsequent college-level courses,
(8) The level of satisfaction of students who complete programs and those who do not complete programs,
(9) Curriculum student retention and graduation,
(10) Employer satisfaction with graduates,
(11) Client satisfaction with customized training, and
(12) Program enrollment.

(f) Publication of Performance Ratings. -- Each college shall publish its performance on the 12 measures set out in subsection (e) of this section (i) annually in its electronic catalog or on the Internet and (ii) in its printed catalog each time the catalog is reprinted.

The Community Colleges System Office shall publish the performance of all colleges on all 12 measures in its annual Critical Success Factors Report.

(g) Performance Budgeting; Recognition for Successful Performance. -- For the purpose of performance budgeting, the State Board of Community Colleges shall evaluate each college on six performance measures. These six shall be the five set out in subdivisions (1) through (5) of subsection (e) of this section and one selected by the college from the remainder set out in subdivisions (6) through (11). For each of these six performance measures on which a college performs successfully or attains the standard of significant improvement, the college may retain and carry forward into the next fiscal year one-third of one percent (1/3 of 1%) of its final fiscal year General Fund appropriations.

(h) Performance Budgeting; Recognition for Superior Performance. -- Funds not allocated to colleges in accordance with subsection (g) of this section shall be used to reward superior performance. After all State aid budget obligations have been met, the State Board of Community Colleges shall distribute the remainder of these funds equally to colleges that perform successfully on at least five of the six performance measures.

(i) Permissible Uses of Funds. -- Funds retained by colleges or distributed to colleges pursuant to this section shall be used for the purchase of equipment, initial program start-up costs including faculty

salaries for the first year of a program, and one-time faculty and staff bonuses. These funds shall not be used for continuing salary increases or for other obligations beyond the fiscal year into which they were carried forward. These funds shall be encumbered within 12 months of the fiscal year into which they were carried forward."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, C. Wilson, Senators Lee, Dalton, Plyler, Perdue, Odom

COMMUNITY COLLEGE TUITION/LEGAL IMMIGRANTS

Section 9.8. G.S. 115D-39 reads as rewritten:

"§ *115D-39. Student tuition and fees.*

The State Board of Community Colleges shall fix and regulate all tuition and fees charged to students for applying to or attending any institution pursuant to this Chapter.

The receipts from all student tuition and fees, other than student activity fees, shall be State funds and shall be deposited as provided by regulations of the State Board of Community Colleges.

The legal resident limitation with respect to tuition, set forth in G.S. 116-143.1 and G.S. 116-143.3, shall apply to students attending institutions operating pursuant to this Chapter; provided, however, that when an employer other than the armed services, as that term is defined in G.S. 116-143.3, pays tuition for an employee to attend an institution operating pursuant to this Chapter and when the employee works at a North Carolina business location, the employer shall be charged the in-State tuition rate; provided further, however, a community college may charge in-State tuition to up to one percent (1%) of its out-of-state students, rounded up to the next whole number, to accommodate the families transferred by business, the families transferred by industry, or the civilian families transferred by the military, consistent with the provisions of G.S. 116-143.3, into the State. Notwithstanding these requirements, a refugee who lawfully entered the United States and who is living in this State shall be deemed to qualify as a domiciliary of this State under G.S. 116-143.1(a)(1) and as a State resident for community college tuition purposes as defined in G.S. 116-143.1(a)(2). Also, a nonresident of the United States who has resided in North Carolina for a 12-month qualifying period and has filed an immigrant petition with the United States Immigration and Naturalization Service shall be considered a State resident for community college tuition purposes."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Baddour, Senators Lee, Dalton, Plyler, Perdue, Odom

SUPPLEMENTAL FUNDING FOR SUMMER TERM CURRICULUM INSTRUCTION

Section 9.9.(a) Funds appropriated in this act for summer term curriculum instruction are provided as a supplement to curriculum enrollment funding for the regular academic year. These funds are

for direct instructional costs, including faculty salaries and benefits, and instructional supplies and materials ("other costs") and shall be budgeted as such by the community college institutions. These funds may be carried forward beyond the fiscal year in which they are appropriated, only for the purpose of fulfilling a contractual obligation for summer term curriculum instructional faculty.

Funding for summer term curriculum instruction shall be allocated from a separate line item in State aid fund code 1600 based on full-time equivalent student enrollment in summer term curriculum course offerings for the prior fiscal year. Funding for summer term curriculum instruction shall not be included in the continuing budget concept for full-time equivalent (FTE) enrollment funding as enacted in Section 10.4(b) of S.L. 1998-212.

It is the intent of the General Assembly to review annually the objectives, use of funds, and benefits of funding for summer term curriculum instruction to determine whether to provide increased funding for this purpose.

Nothing in this section shall be construed as the intent of the General Assembly to provide additional funding for summer term curriculum enrollment increases or to increase the rate of funding per FTE for summer term enrollment.

The State Board of Community Colleges shall adopt a calendar for curriculum instruction, designating the dates on which the fall, spring, and summer terms shall begin and end. The calendar shall provide for flexibility among community college institutions for actual starting and ending dates within a range established by the State Board of Community Colleges. The session for the summer term shall not overlap either the fall or spring semesters in such a way as to allow summer term earned FTE to be counted as fall or spring earned FTE for the purposes of determining enrollment funding under the continuing budget concept.

Section 9.9.(b) The State Board of Community Colleges shall hold harmless, from monetary penalties, repayment of State resources, and reimbursement of uncollected tuition, any community college for which the Program Audit Services Section of the Community Colleges System Office notes an audit exception for membership hours reported on the Spring 1999 Curriculum Institution Class Report (ICR) for classes which began after the institution's published ending date for that term. This subsection shall only apply for curriculum membership hours reported for the Spring 1998 to Spring 1999 reporting period. This subsection applies to all final audit exceptions noted previously or in the future.

Section 9.9.(c) The State Board of Community Colleges shall report on the implementation of this section to the Joint Legislative Education Oversight Committee by January 8, 2001. The report shall include the calendar adopted by the State Board, a summary of anticipated summer term course offerings by institution, and an explanation of the planned use of funds provided as a supplement for summer term curriculum instruction by institution.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

FUNDS FOR REGIONAL AND COOPERATIVE INITIATIVES

Section 9.11. Section 9.11(a) of S.L. 1999-237 read, as rewritten by Section 7 of S.L. 1999-321, reads as rewritten:

"(a) There is appropriated from the Employment Security Commission Training and Employment Account created in G.S. 96-6.1 to the Community Colleges System Office the sum of eighteen million dollars ($18,000,000) for the 1999-2000 fiscal year and the sum of forty-eight million five hundred thousand dollars ($48,500,000) for the 2000-2001 fiscal year. These funds shall be used as follows:

		1999-2000	2000-2001
1.	Nonreverting Equipment, Technology, and MIS Reserve	$10,000,000	$38,000,000
2.	Nonreverting Start-Up Fund for Regional and Cooperative Initiatives	$ 3,000,000	$ 3,000,000
3.	New and Expanding Industry Training Program	$ 4,000,000	$5,500,000
4.	Enhanced Focused Industrial Training Programs	$ 1,000,000	$ 2,000,000
	TOTAL:	$18,000,000	$48,500,000

Funds allocated for the Nonreverting Start-Up Fund for Regional and Cooperative Initiatives shall be used for community college projects that foster regional cooperation among community colleges, between public schools and community colleges, and between universities and community colleges. In considering funding requests for this Fund, the Board may take into account significant job losses and other indicators of economic distress in the county or region served by the community college applicant.

Funds allocated for the Nonreverting Start-Up Fund for Regional and Cooperative Initiatives shall be used only for the nonrecurring costs of starting new programs, expanding existing regional and cooperative programs, or both. Nonrecurring costs include but are not limited to the costs of equipment, program development, and instructional development. Funds for regional and cooperative initiatives shall not be used for construction, renovation or other capital related costs."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

ENCOURAGE TRAINING PROGRAMS IN BOAT-BUILDING

Section 9.12. The General Assembly recognizes and acknowledges the important role North Carolina Community Colleges are playing in the development of the boat-building industry through such means as its New and Expanding Industry Training Program, enhanced Focused Industrial Training, and Continuing Education and Curriculum programs. Many of North Carolina's boat-builders are significantly expanding their operations and North Carolina Community Colleges are supporting this growth through customized training and by retraining through the new Manufacturing Certification Program. The General Assembly encourages the North Carolina Community Colleges System to continue to develop and provide specialized programs to support this important industry.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

REGULATION OF PROPRIETARY SCHOOLS/STUDY

Section 9.13. The Legislative Research Commission shall study current State programs governing the licensure and regulation of proprietary schools under Article 8 of Chapter 115D of the General Statutes. In the course of the study, the Commission shall consider:

(1) The appropriate State agency to license and regulate proprietary schools,
(2) The level of personnel required to to license and regulate the schools,
(3) The level of funding required to license and regulate the schools,
(4) The proportion of required funding that should be supported by license fees,
(5) An appropriate fee schedule for proprietary schools; and
(6) A plan for effective enforcement of the provisions of the current law regarding the licensing and regulation of proprietary schools.

The Commission shall report the results of this study to the 2001 General Assembly.

PART X. UNIVERSITIES

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

REALIGN CENTER FOR SCHOOL LEADERSHIP DEVELOPMENT PROGRAMS

Section 10.(a) Effective October 1, 2000, the Principals Executive Program and all of its statutory authority, powers, duties, and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and purchasing, is transferred from the University of North Carolina at Chapel Hill to the Board of Governors of The University of North Carolina. The Board of Governors shall coordinate the

program within the University of North Carolina Center for School Leadership Development.

Section 10.(b) Effective October 1, 2000, the University of North Carolina Mathematics and Science Education Network and all of its statutory authority, powers, duties, and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and purchasing, is transferred from the University of North Carolina at Chapel Hill to the Board of Governors of The University of North Carolina. The Board of Governors shall coordinate the program within the University of North Carolina Center for School Leadership Development.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

UNC NEED-BASED STUDENT FINANCIAL AID PROGRAM

Section 10.1. Of the funds appropriated by this act to the Board of Governors of The University of North Carolina the sum of five million dollars ($5,000,000) in recurring funds shall be used to establish and begin the implementation of the new need-based student financial aid program for in-State students attending constituent institutions of The University of North Carolina. The program shall provide grants to needy North Carolina students who are seeking undergraduate degrees or masters degrees. Eligibility of a student for a program grant shall be based on a formula that offsets Pell grants and federal tax credits before determining eligibility to receive one of the new grants. In addition, to be eligible for a program grant, a student shall also be required to contribute a combination of personal savings, borrowed funds, institutional aid, and personal earnings, called self-help.

The new program shall be administered by the North Carolina State Education Assistance Authority. The North Carolina State Education Assistance Authority shall coordinate offers of institutional aid and program grants made to a student to ensure that the student does not receive more in grants and scholarships than the actual cost of attendance.

In the absence of full funding for the program, the North Carolina State Education Assistance Authority may modify the formula for distribution as needed to accommodate the reduced amount.

The program shall be established and implemented in accordance with the recommendations regarding its creation adopted by the Board of Governors in November 1999. The goals of the program shall be to make The University of North Carolina more affordable for low-income students and to reduce student indebtedness by setting a limit on the funds that needy students will be asked to borrow each year. This program will provide financial assistance to constituent institutions that enroll disproportionate numbers of low-income students, particularly at the seven institutions targeted for major enrollment growth.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom, Dannelly, Clodfelter

UNC CHARLOTTE RETAIN LAND SALE PROCEEDS

Section 10.2. Notwithstanding any other provision of law, the University of North Carolina at Charlotte may retain the proceeds from the sale of the existing chancellor's residence. The University of North Carolina at Charlotte may use the proceeds from the sale of the existing chancellor's residence, and any other nonappropriated funds available, to construct a new chancellor's residence. Proceeds from the sale not used for that purpose shall revert.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

AID TO STUDENTS ATTENDING PRIVATE COLLEGES PROCEDURE

Section 10.3. Section 10 of S.L. 1999-237 reads as rewritten:

"Section 10.(a) Funds appropriated in this act to the Board of Governors of The University of North Carolina for aid to private colleges shall be disbursed in accordance with the provisions of G.S. 116-19, 116-21, and 116-22. These funds shall provide up to one thousand fifty dollars ($1,050) per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1, 1999, for the 1999-2000 fiscal year and up to one thousand ~~fifty~~ one hundred dollars ~~($1,050)~~ ($1,100) per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1, 2000, for the 2000-2001 fiscal year.

These funds shall be placed in a separate, identifiable account in each eligible institution's budget or chart of accounts. All funds in this account shall be provided as scholarship funds for needy North Carolina students during the fiscal year. Each student awarded a scholarship from this account shall be notified of the source of the funds and of the amount of the award. Funds not utilized under G.S. 116-19 shall be available for the tuition grant program as defined in subsection (b) of this section.

Section 10.(b) In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to private educational institutions located within the State, or to students attending these institutions, there is granted to each full-time North Carolina undergraduate student attending an approved institution as defined in G.S. 116-22, a sum, not to exceed one thousand seven hundred fifty dollars ($1,750) for the 1999-2000 academic year and one thousand ~~seven hundred fifty~~ eight hundred dollars ~~($1,750)~~ ($1,800) for the 2000-2001 academic year, which shall be distributed to the student as hereinafter provided.

The tuition grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules adopted by the State Education Assistance Authority not inconsistent with this section. The State Education Assistance Authority shall not approve

any grant until it receives proper certification from an approved institution that the student applying for the grant is an eligible student. Upon receipt of the certification, the State Education Assistance Authority shall remit at such times as it shall prescribe the grant to the approved institution on behalf, and to the credit, of the student.

In the event a student on whose behalf a grant has been paid is not enrolled and carrying a minimum academic load as of the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether the institution has properly certified eligibility and enrollment of students and credited grants paid on behalf of the students.

In the event there are not sufficient funds to provide each eligible student with a full grant:

(1) The Board of Governors of The University of North Carolina, with the approval of the Office of State Budget and Management, may transfer available funds to meet the needs of the programs provided by subsections (a) and (b) of this section; and

(2) Each eligible student shall receive a pro rata share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation.

Any remaining funds shall revert to the General Fund.

Section 10.(c) Expenditures made pursuant to this section may be used only for secular educational purposes at nonprofit institutions of higher learning. Expenditures made pursuant to this section shall not be used for any student who:

(1) Is incarcerated in a State or federal correctional facility for committing a Class A, B, B1, or B2 felony; or

(2) Is incarcerated in a State or federal correctional facility for committing a Class C through I felony and is not eligible for parole or release within 10 years.

Section 10.(d) The State Education Assistance Authority shall document the number of full-time equivalent North Carolina undergraduate students that are enrolled in off-campus programs and the State funds collected by each institution pursuant to G.S. 116-19 for those students. The State Education Assistance Authority shall also document the number of scholarships and the amount of the scholarships that are awarded under G.S. 116-19 to students enrolled in off-campus programs. An 'off-campus program' is any program offered for degree credit away from the institution's main permanent campus.

The State Education Assistance Authority shall include in its annual report to the Joint Legislative Education Oversight Committee the information it has compiled and its findings regarding this program."

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom
UNC DISTANCE EDUCATION

Section 10.4. This act provides funding to the Board of Governors of The University of North Carolina for degree-related courses provided away from the campus sites of the constituent institutions. The intent of this commitment is to provide expanded opportunities for higher education to more North Carolina residents, including nontraditional students, and to increase the number of North Carolina residents who earn postsecondary degrees.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom
HIGHER EDUCATION COMPENSATION

Section 10.5. The Joint Legislative Education Oversight Committee shall study the need for an "Excellent Universities and Community Colleges Act" that addresses the need and ability of The University of North Carolina and the State's community college system to attract and retain excellent faculty.

In its deliberations regarding university faculty, the Committee shall consider the study conducted by The University of North Carolina on compensation for the faculty at its constituent institutions, how compensation for similar faculty positions compares among the constituent institutions, and how compensation for faculty positions compares with that paid by other public universities for similar faculty positions.

In its deliberations regarding compensation for faculty in the State's community college system, the Committee shall consider any relevant studies on community college faculty compensation conducted by the community college system, how compensation for similar faculty positions compares among the community colleges, and how compensation for faculty positions compares with that paid by other public community college systems for similar faculty positions.

If the Committee determines in its study that there are critical issues regarding faculty compensation, then the Committee shall include in its recommendations and report whether a major, new legislative initiative is needed to address those issues. The Committee shall report its findings and recommendations to the 2001 General Assembly.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom
JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE STUDY GLOBAL EDUCATION PROGRAMS

Section 10.6. The Joint Legislative Education Oversight Committee may study the various international studies and global education programs offered within the State's university system. In its study the Committee shall consider the number of international studies or global education programs that are offered within the

university system, the source of funds, the curriculum for each program, and the teaching methodology used in each of those programs. The Committee shall evaluate the programs and determine how the programs compare with regard to quality, curriculum, teaching methodology, and student enrollment and identify any duplication.

The Committee may report its findings and recommendations to the 2001 General Assembly.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Baddour, Senators Lee, Dalton, Plyler, Perdue, Odom

MODEL TEACHER CONSORTIUM

Section 10.7. Of the funds appropriated to the Board of Governors of The University of North Carolina for the 2000-2001 fiscal year the sum of one million three hundred thousand dollars ($1,300,000) is allocated to restore the model teacher consortium program to the 21 counties that were part of that program in 1998-99 and to add the following eight counties to the program: Bladen, Caswell, Camden, Wayne, Alamance, Beaufort, Washington, and Onslow Counties.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Lee, Dalton, Plyler, Perdue, Odom

STATE PURCHASING SYSTEM AVAILABLE TO PRIVATE UNIVERSITIES

Section 10.9.(a) G.S. 143-49(6) reads as rewritten:

"*§ 143-49. Powers and duties of Secretary.*

The Secretary of Administration shall have power and authority, and it shall be his duty, subject to the provisions of this Article:

. . .

(6) To make available to nonprofit corporations operating charitable hospitals, to local nonprofit community sheltered workshops or centers that meet standards established by the Division of Vocational Rehabilitation of the Department of Health and Human Services, to private nonprofit agencies licensed or approved by the Department of Health and Human Services as child placing agencies, residential child-care facilities, private nonprofit rural, community, and migrant health centers designated by the Office of Rural Health and Resource Development, to private higher education institutions that are defined as 'institutions' in G.S. 116-22(1), and to counties, cities, towns, governmental entities and other subdivisions of the State and public agencies thereof in the expenditure of public funds, the services of the Department of Administration in the purchase of materials, supplies and equipment under such rules, regulations and procedures as the Secretary of Administration may adopt. In adopting rules and regulations

any or all provisions of this Article may be made applicable to such purchases and contracts made through the Department of Administration, and in addition the rules and regulations shall contain a requirement that payment for all such purchases be made in accordance with the terms of the contract. Prior to adopting rules and regulations under this subdivision, the Secretary of Administration may consult with the Advisory Budget Commission.

. . . ."

Section 10.9.(b) The Secretary of Administration may adopt temporary rules in accordance with Chapter 150B of the General Statutes to implement G.S. 143-49(6), as rewritten by subsection (a) of this section.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Dalton, Lee, Plyler, Perdue, Odom

TRANSFER CENTER FOR ERGONOMICS FUNDS TO NCSU

Section 10.10. The Office of State Budget and Management shall transfer the sum of five hundred thousand dollars ($500,000) from the Department of Labor to the Board of Governor's of The University of North Carolina. These funds shall be allocated to North Carolina State University as part of the continuation budget for North Carolina State University for the 2001-2003 fiscal biennium for the Center for Ergonomics.

Requested by: Representatives Boyd-McIntyre, Oldham, Rogers, Easterling, Redwine, Senators Dalton, Lee, Plyler, Perdue, Odom

ACCOUNTABILITY FOR SCHOOL LEADERSHIP DEVELOPMENT PROGRAMS/STUDY PRINCIPAL FELLOWS PROGRAM

Section 10.11.(a) The Board of Governors of The University of North Carolina shall review the programs under the UNC Center for School Leadership Development. In the course of this review, the Board of Governors of The University of North Carolina shall study and recommend to the Joint Legislative Education Oversight Committee, by March 1, 2001:

(1) A proposal for implementing specific and validated accountability and performance measures that clearly demonstrate the strengths, weaknesses, and costs of each program under the Center; and

(2) Any recommendations for improving program coordination and efficiencies.

Section 10.11.(b) The Board of Governors of The University of North Carolina shall, in collaboration with the State Board of Education, convene a representative committee to study the policies and legislation creating the Principal Fellows Program and to make recommendations that would increase the flexibility necessary for the Program to attract a broader age, racial, and ethnic makeup of the

applicant pool. The committee shall report to the Joint Legislative Education Oversight Committee by January 15, 2001.

PART XI. DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBPART 1. ADMINISTRATION

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Purcell, Plyler, Perdue, Odom

STATE HEALTH STANDARDS

Section 11. Effective October 1, 2000, Article 1 of Chapter 130A of the General Statutes is amended by adding the following new section to read:

"*§ 130A-5.1. State health standards.*

(a) The Secretary shall adopt measurable standards and goals for community health against which the State's actions to improve the health status of its citizens will be measured. The Secretary shall report annually to the General Assembly upon its convening or reconvening and to the Governor on all of the following:

(1) How the State compares to national health measurements and established State goals for each standard. Comparisons shall be reported using disaggregated data for health standards.

(2) Steps taken by State and non-State entities to meet established goals.

(3) Additional steps proposed or planned to be taken to achieve established goals.

(b) The Secretary may coordinate and contract with other entities to assist in the establishment of standards and preparation of the report. The Secretary may use resources available to implement this section."

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

DHHS STUDY OF NEW FACILITIES DIVISION

Section 11.1. The Department of Health and Human Services shall study whether a new facilities division to consolidate physical plant operations of all State institutions should be established in the Department. Not later than January 1, 2001, the Department shall report its findings and recommendations to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

ELIMINATION OF VACANT DHHS POSITIONS

Section 11.2. The Department of Health and Human Services shall eliminate 29 vacant positions effective November 1, 2000. Positions eliminated shall not be those that impact direct patient care, services, or safety and shall not be positions at the State psychiatric

hospitals, alcohol and drug abuse treatment centers, the Wright School, or Whitaker School.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

QUALITY CRITERIA FOR LONG-TERM CARE

Section 11.3. The Department of Health and Human Services in conjunction with the North Carolina Institute of Medicine shall convene a special work group to develop criterion-based indicators for the monitoring of quality of care in North Carolina nursing homes, adult care homes, assisted living facilities, and home health care programs. The Institute of Medicine and the Department of Health and Human Services shall work together to implement these criteria for the monitoring of long-term care in the State and pursue options for the use of these criteria in lieu of current HCFA-mandated standards for surveying North Carolina nursing homes under the federal Medicaid and Medicare programs.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

LONG-TERM CARE SERVICES DATA

Section 11.4.(a) By January 1, 2001, the Department of Health and Human Services in conjunction with the North Carolina Institute of Medicine shall:

(1) Identify screening, level of services, and care planning instruments to be used for all DHHS long-term care services;

(2) Develop a timetable for testing and implementing these instruments; and

(3) Compile county level data on the number of people age 18 years or older who use DHHS long-term care services and expenditures by Division and type of program.

Section 11.4.(b) Subsection (a) of Section 11.7A of S.L. 1999-237 reads as rewritten:

"Section 11.7A.(a) The Department of Health and Human Services shall, in cooperation with other appropriate State and local agencies and representatives of consumer and provider organizations, develop a system that provides a continuum of long-term care for elderly and disabled individuals and their families. The Department shall define the system of long-term care services to include:

(1) A structure and means for screening, assessment, and care management across settings of care;

(2) A process to determine outcome measures for care;

(3) An integrated data system to track expenditures, consumer characteristics, and consumer outcomes;

(4) Relationships between the Department and the State's universities to provide policy analysis and program evaluation support for the development of long-term care system reforms;

(5) An implementation plan that addresses testing of models, reviewing existing models, evaluation of components, and steps needed to achieve development of a coordinated system; and

(6) Provision for consumer, provider, and agency input into the system design and implementation development.

Effective January 1, ~~2001,~~ 2002, the system developed by the Department shall do the following:

(1) Implement the initial phase of a comprehensive data system that tracks long-term care expenditures, services, consumer profiles, and consumer preferences; and

(2) Develop a system of statewide long-term care services coordination and case management to minimize administrative costs, improve access to services, and minimize obstacles to the delivery of long-term care services to people in need."

Requested by: Representatives Oldham, Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

CLOSING THE ACHIEVEMENT GAP

Section 11.4A. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Social Services, the sum of two hundred fifty thousand dollars ($250,000) for the 2000-2001 fiscal year shall be used to establish and administer a pilot program to assist families that have children who are performing below school grade level in strengthening family cohesiveness, functioning, and economic progress and improving the academic performance of their children. The program shall be developed and implemented no later than August 1, 2001, as follows:

(1) Each pilot program shall be family-focused and designed to improve family success in addressing issues pertaining to:
   a. Family functioning and economic progress;
   b. Academic success for children in the family in a manner that reduces the likelihood that the children will have a life of poverty; and
   c. Strengthening the communities in which the family lives.

(2) There shall be at least eight pilot programs initially established which shall be based on components of successful models and concepts. Any nonprofit, tax-exempt organization or local government agency that is part of the collaborative effort to develop the pilot program may serve as the lead agency in applying for and administering grant funds.

(3) Families eligible for participation in a pilot program shall be those families:
   a. Who have at least one child in elementary or middle school who is performing academically at least one year below the child's grade level;

b. At least one adult member of which agrees to participate in the program and in a culturally appropriate assessment of family functioning; and
c. Whose income is below two hundred percent (200%) of the federal poverty level or whose income is at or above two hundred percent (200%) of the federal poverty level if authorized by the requirements of the funding source.

(4) The Department and other entities collaborating to develop the program shall identify resources currently available to address the concerns of below-grade-level academic performance and problems related to family cohesiveness, functioning, and family economic progress and shall strive to harness these resources in a manner that increases effectiveness and reduces overall costs of the pilot program. The Department shall also determine which entities can best operate which components of the total pilot program and how those entities can contribute to the abilities of others to be more successful in operating their components.

(5) The Department may obtain the services of consultants in the planning, coordination, implementation, and evaluation of the program.

(6) The Department of Health and Human Services shall establish a task force to collaborate with and advise the Department on the development and implementation of the program. The task force shall consist of, at a minimum, representatives of:
a. The Department of Public Instruction;
b. The Cooperative Extension Services at North Carolina Agricultural and Technical State University and at North Carolina State University;
c. The Office of Juvenile Justice;
d. Workforce Development Boards;
e. Local education agencies;
f. Local departments or boards of social services, county commissioners, and health departments;
g. Community-based organizations, specifically those that work within low-income communities;
h. Religious organizations or institutions; and
i. Charter schools.

(7) Each of the pilot programs shall have comparable structures for administration, advice, and technical assistance.

(8) Each pilot program shall be developed in a way that results in observable and measurable outcomes and that is subject to sound evaluation techniques. Evaluation measures and techniques shall be designed and implemented to:
a. Identify and explain the components of the pilot program that are successful and those that are not successful;

b. Recommend systemic changes through integration of positive outcomes; and
c. Produce outcomes that, if successful, can be replicated.

(9) The Department shall present a progress report to the Committee on Improving the Academic Achievement of Minority and At-Risk Students, the Senate Appropriations Committee on Human Resources, and the House of Representatives Appropriations Subcommittee on Health and Human Services by March 1, 2001. This report shall contain a plan to implement and evaluate the program, including:
a. Pilot sites selected;
b. Identification of evaluation tools;
c. Identification of existing sources of federal and State funding that can be used to implement and evaluate the program;
d. Identification of additional resources, fiscal and otherwise, that are available to implement and evaluate the program; and
e. Strategies that utilize school facilities to the maximum reasonable extent possible and that do not place undue burdens on school personnel.

(10) The Department shall make a final report to the Committee on Improving the Academic Achievement of Minority and At-Risk Students, the Senate Appropriations Committee on Human Resources, and the House of Representatives Appropriations Subcommittee on Health and Human Services by February 1, 2002. This report shall include a recommendation as to whether the program should be extended statewide. If so, the Department shall present a plan that includes the projected cost, process, and time frame for implementation of the program statewide.

SUBPART 2. MEDICAL ASSISTANCE

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

MEDICAID PROGRAM

Section 11.5. Section 11.12 of S.L. 1999-237 reads as rewritten:

"Section 11.12.(a) Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for these services shall be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection.

Services and payment bases:

(1) Hospital-Inpatient - Payment for hospital inpatient services will be prescribed in the State Plan as established by the Department of Health and Human Services.

(2) Hospital-Outpatient - Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.

(3) Nursing Facilities - Payment for nursing facility services will be prescribed in the State Plan as established by the Department of Health and Human Services. Nursing facilities providing services to Medicaid recipients who also qualify for Medicare, must be enrolled in the Medicare program as a condition of participation in the Medicaid program. State facilities are not subject to the requirement to enroll in the Medicare program.

(4) Intermediate Care Facilities for the Mentally Retarded - As prescribed in the State Plan as established by the Department of Health and Human Services.

(5) Drugs - Drug costs as allowed by federal regulations plus a professional services fee per month excluding refills for the same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. Payments for drugs are subject to the provisions of subsection (h) of this section and to the provisions at the end of subsection (a) of this section, or in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents ($5.60) per prescription. Adjustments to the professional services fee shall be established by the General Assembly.

(6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified Nurse Midwife ~~Services~~ Services, Nurse Practitioners - Fee schedules as developed by the Department of Health and Human Services. Payments for dental services are subject to the provisions of subsection (g) of this section.

(7) Community Alternative Program, EPSDT Screens - Payment to be made in accordance with rate schedule developed by the Department of Health and Human Services.

(8) Home Health and Related Services, Private Duty Nursing, Clinic Services, Prepaid Health Plans, Durable Medical Equipment - Payment to be made according to reimbursement plans developed by the Department of Health and Human Services.

(9) Medicare Buy-In - Social Security Administration premium.

(10) Ambulance Services - Uniform fee schedules as developed by the Department of Health and Human Services. Public ambulance providers will be reimbursed at cost.

(11) Hearing Aids - Actual cost plus a dispensing fee.

(12) Rural Health Clinic Services - Provider-based, reasonable cost; nonprovider-based, single-cost reimbursement rate per clinic visit.

(13) Family Planning - Negotiated rate for local health departments. For other providers - see specific services, for instance, hospitals, physicians.

(14) Independent Laboratory and X-Ray Services - Uniform fee schedules as developed by the Department of Health and Human Services.

(15) Optical Supplies - One hundred percent (100%) of reasonable wholesale cost of materials.

(16) Ambulatory Surgical Centers - Payment as prescribed in the reimbursement plan established by the Department of Health and Human Services.

(17) Medicare Crossover Claims - An amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services.

(18) Physical Therapy and Speech Therapy - Services limited to EPSDT eligible children. Payments are to be made only to qualified providers at rates negotiated by the Department of Health and Human Services.

(19) Personal Care Services - Payment in accordance with the State Plan approved by the Department of Health and Human Services.

(20) Case Management Services - Reimbursement in accordance with the availability of funds to be transferred within the Department of Health and Human Services.

(21) Hospice - Services may be provided in accordance with the State Plan developed by the Department of Health and Human Services.

(22) Other Mental Health Services - Unless otherwise covered by this section, coverage is limited ~~to~~ to:

a. ~~agencies~~ Agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, and reimbursement is made in accordance with a State Plan developed by the Department of Health and Human Services not to exceed the upper limits established in federal ~~regulations.~~ regulations, and

b. For children eligible for EPSDT services:

1. Licensed or certified psychologists, certified mental health nurse practitioners, and licensed clinical social workers when Medicaid-eligible children are referred by the primary care physician or the area mental health program, and
2. Institutional providers of residential services for children and Psychiatric Residential Treatment Facility services, that meet federal and State requirements as defined by the Department.

The Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes further defining the qualifications of providers and referral procedures in order to implement this subdivision.

(23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible Children - Reimbursement in accordance with the State Plan approved by the Department of Health and Human Services.

(24) Health Insurance Premiums - Payments to be made in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal regulations.

(25) Medical Care/Other Remedial Care - Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates. Services addressed by this paragraph are limited to those prescribed in the State Plan as established by the Department of Health and Human Services. Except for related services in schools, providers of these services shall be certified as meeting program standards of the Department of Health and Human Services, Division of Women's and Children's Health.

(26) Pregnancy Related Services - Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and predelivery and postpartum home visits by maternity care coordinators and public health nurses.

Services and payment bases may be changed with the approval of the Director of the Budget.

Reimbursement is available for up to 24 visits per recipient per year to any one or combination of the following: physicians, clinics, hospital outpatient, optometrists, chiropractors, and podiatrists. Prenatal services, all EPSDT children, ~~and~~ emergency ~~rooms~~ rooms, and mental health services subject to independent utilization review are exempt from the visit limitations contained in this paragraph. Exceptions may be authorized by the Department of Health and Human Services where the life of the patient would be threatened without such additional care. Any person who is determined by the

Department to be exempt from the 24-visit limitation may also be exempt from the six-prescription limitation.

Section 11.12.(b) Allocation of Nonfederal Cost of Medicaid. The State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section.

Section 11.12.(c) Copayment for Medicaid Services. The Department of Health and Human Services may establish copayment up to the maximum permitted by federal law and regulation.

Section 11.12.(d) Medicaid and Work First Family Assistance, Income Eligibility Standards. The maximum net family annual income eligibility standards for Medicaid and Work First Family Assistance and the Standard of Need for Work First Family Assistance shall be as follows:

	Categorically Needy	Medically Needy	
	WFFA*		
Family Size	Standard of Need	Families and Children Income Level	AA, AB, AD*
1	$ 4,344	$ 2,172	$ 2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need.

These standards may be changed with the approval of the Director of the Budget with the advice of the Advisory Budget Commission.

Section 11.12.(e) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines, as revised each April 1.

Section 11.12.(f) ICF and ICF/MR Work Incentive Allowances. The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in work activities as part of their developmental plan and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these

allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

Monthly Net Wages	Monthly Incentive Allowance
$1.00 to $100.99	Up to $50.00
$101.00 - $200.99	$80.00
$201.00 to $300.99	$130.00
$301.00 and greater	$212.00.

Section 11.12.(g) Dental Coverage Limits. Dental services shall be provided on a restricted basis in accordance with rules adopted by the Department to implement this subsection.

Section 11.12.(h) Dispensing of Generic Drugs. Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, under the Medical Assistance Program (Title XIX of the Social Security Act) a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber personally indicates, either orally or in the prescriber's own handwriting on the prescription order, 'dispense as written' or words of similar meaning. Generic drugs, when available in the pharmacy, shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand name drugs, subject to the prescriber's 'dispense as written' order as noted above.

As used in this subsection 'brand name' means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and 'established name' has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

Section 11.12.(i) Exceptions to Service Limitations, Eligibility Requirements, and Payments. Service limitations, eligibility requirements, and payments bases in this section may be waived by the Department of Health and Human Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services, or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient. The Department of Health and Human Services may proceed with planning and development work on the Program of All-Inclusive Care for the Elderly and will issue a progress report to the chairs of the House Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources on or before January 30, 2001.

Section 11.12.(j) Volume Purchase Plans and Single Source Procurement. The Department of Health and Human Services,

Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other similar processes in order to improve cost containment.

Section 11.12.(k) Cost Containment Programs. The Department of Health and Human Services, Division of Medical Assistance, may undertake cost containment programs including preadmissions to hospitals and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

Section 11.12.(l) For all Medicaid eligibility classifications for which the federal poverty level is used as an income limit for eligibility determination, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines.

Section 11.12.(m) The Department of Health and Human Services shall provide Medicaid to 19-, 20-, and 21-year olds in accordance with federal rules and regulations.

Section 11.12.(n) The Department of Health and Human Services shall provide coverage to pregnant women and to children according to the following schedule:

(1) Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(2) Infants under the age of 1 with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(3) Children aged 1 through 5 with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(4) Children aged 6 through 18 with family incomes equal to or less than the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(5) The Department of Health and Human Services shall provide Medicaid coverage for adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy. In order to reduce county administrative costs and to expedite the provision of medical services to pregnant women, to infants, and to children described in subdivisions (3) and (4) of this subsection, no resources test shall be applied.

Section 11.12.(o) Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

Section 11.12.(p) The Department of Health and Human Services shall submit a ~~monthly~~ quarterly status report on expenditures for acute care and long-term care services to the Fiscal Research Division and to the Office of State Budget and Management. This report shall include an analysis of budgeted versus actual expenditures for eligibles by category and for long-term care beds. In addition, the Department shall revise the program's projected spending for the current fiscal year and the estimated spending for the subsequent fiscal year on a quarterly basis. ~~Reports for the preceding month~~ The quarterly expenditure report and the revised forecast shall be forwarded to the Fiscal Research Division and to the Office of State Budget and Management no later than the third Thursday of the ~~month.~~ month following the end of each quarter.

Section 11.12.(q) The Division of Medical Assistance, Department of Health and Human Services, may provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds.

Section 11.12.(r) If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of Health and Human Services, may use funds that are identified to support the cost of development and acquisition of equipment and software through contractual means to improve and enhance information systems that provide management information and claims processing.

~~Section 11.12.(s) The Division of Medical Assistance, Department of Health and Human Services, may administer Medicaid estate recovery mandated by the Omnibus Budget Reconciliation Act of 1993, (OBRA 1993), 42 U.S.C. § 1396p(b), and G.S. 108-70.5 using temporary rules pending approval of final rules promulgated pursuant to Chapter 150B of the General Statutes.~~

Section 11.12.(t) The Department of Health and Human Services may adopt temporary rules according to the procedures established in G.S. 150B-21.1 when it finds that these rules are necessary to maximize receipt of federal funds, to reduce Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these temporary rules with the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary rule and its effect on State appropriations and local governments.

Section 11.12.(u) The Department shall report to the Fiscal Research Division of the Legislative Services Office and to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources or the Joint Legislative Health Care Oversight Committee on any change it anticipates making in the Medicaid program that impacts the type or level of service, reimbursement methods, or waivers, any of which require a change in the State Plan or other approval by the Health Care Financing Administration. The reports

shall be provided at the same time they are submitted to HCFA for approval.

Section 11.12.(v) If the Department of Health and Human Services obtains a Medicaid waiver to implement two long-term care pilot projects, then the Department shall report the particulars of the waiver, the pilot projects, and the status of implementation to members of the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Study Commission on Aging within 30 days of receiving the waiver. The Department shall not expand the pilot project beyond the two initial pilots without first reporting the proposed expansion to the members of the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources.

~~Section 11.12.(w) The Department of Health and Human Services shall study the effect of subsection (o) of this section on both the Medicaid program and the Health Insurance Program for Children. The Department shall make an interim report on the results of this study to the members of the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources by October 1, 1999, and shall make a final report by January 1, 2000.~~

Section 11.12.(x) Effective no earlier than October 1, 2000, the Department of Health and Human Services shall amend the Medicaid State Plan to adopt simplified methodologies for the treatment of assets in determining Medicaid eligibility for aged, blind, and disabled persons. The simplified methodologies are limited to excluding the value of burial plots and the cash value of life insurance when the total face value of cash value bearing life insurance policies does not exceed ten thousand dollars ($10,000).

Section 11.12.(y) The Division of Fiscal Research, through the Legislative Services Office, with the cooperation of the Department of Health and Human Services, shall issue a Request for Proposal (RFP) for an independent consultant to study and review the amount, sufficiency, duration, and scope of each service provided under the North Carolina Medicaid Program. The independent consultant shall make an interim progress report on January 1, 2001, to the cochairs of the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources. The final report of the independent consultant shall be presented to the North Carolina General Assembly not later than May 1, 2001. The Department shall transfer funding from the Medicaid Program for the cost of the study.

Section 11.12.(z) The Department of Health and Human Services shall study the feasibility of authorizing Medicaid reimbursement for children eligible for EPSDT services by providers who are eligible for reimbursement for these services under the Teachers' and State Employees' Comprehensive Major Medical Plan pursuant to G.S. 135-40.7B, and under the Health Insurance Program for Children

pursuant to G.S. 108A-70.21. The Department shall report its findings and recommendations to the members of the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division not later than October 1, 2000.

Section 11.12.(aa) Upon approval of a demonstration waiver by the Health Care Financing Administration, the Department of Health and Human Services may provide Medicaid coverage for family planning services to men and women of child-bearing age with family incomes equal to or less than 185% of the federal poverty level. Coverage shall be contingent upon federal approval of the waiver and shall begin no earlier than January 1, 2001."

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

COUNTY MEDICAID COST-SHARE

Section 11.6.(a) Section 11.39 of S.L. 1999-237 reads as rewritten:

"Section 11.39.(a) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for the 1999-2000 fiscal year, the Department shall transfer to the Mental Health Restricted Reserve not more than the amount of actual expenditures for Medicaid payments for the 1998-99 fiscal year for services provided by area mental health authorities. The Department shall transfer from the Division of Medical Assistance the estimated amount needed to match Medicaid payments for the former Carolina Alternatives Programs. The Department shall not transfer from area program allocations funds to cover Medicaid payment expenditures that exceed the amount of funds in the Reserve for the 1999-2000 fiscal year.

Section 11.39.(b) ~~Any nonfederal increases in the cost of Medicaid services provided by area mental health authorities will be borne in equal parts by the State and county funding entity until the county share reaches fifteen percent (15%) of the nonfederal share.~~ Effective July 1, 2000, the county share of the cost of Medicaid services currently and previously provided by area mental health authorities shall be increased incrementally each fiscal year until the county share reaches fifteen percent (15%) of the nonfederal share by State fiscal year 2009-2010."

Section 11.6.(b) Section 11.22(g) is repealed.

Section 11.6.(c) Section 11.22(h) of S.L. 1999-237 reads as rewritten:

"Section 11.22.(h) ~~Effective January 1, 2000, the State shall pay fifty percent (50%) and the county shall pay fifty percent (50%) of the nonfederal share of new levels of Medicaid Personal Care Services paid to adult care homes. Effective July 1, 2001, the State shall pay fifty-seven percent (57%) and each county shall pay forty-three percent (43%) of the nonfederal share of new levels of Medicaid Personal~~

~~Care Services paid to adult care homes. Each year thereafter, the State share of the nonfederal cost will increase by seven percent (7%) until the county share equals fifteen percent (15%) of the nonfederal share of new levels of Medicaid Personal Care Services.~~ Effective July 1, 2000, the county share of the cost of Medicaid Personal Care Services paid to adult care homes shall be decreased incrementally each fiscal year until the county share reaches fifteen percent (15%) of the nonfederal share by State fiscal year 2009-2010."

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

MEDICAID RESERVE FUND TRANSFER

Section 11.7. Section 11.10(a) of S.L. 1999-237 reads as rewritten:

"Section 11.10.(a) Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of eighty-four million dollars ($84,000,000) for the 1999-2000 fiscal year and the sum of ~~twenty-nine~~ ninety-nine million dollars ~~($29,000,000)~~ ($99,000,000) for the 2000-2001 fiscal year shall be allocated as prescribed by G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act."

Requested by: Representatives Earle, Nye, Easterling, Redwine, Baddour, Nesbitt, Senators Martin of Guilford, Rand, Plyler, Perdue, Odom, Cooper

WAIVE NC HEALTH CHOICE WAITING PERIOD FOR SPECIAL NEEDS CHILDREN

Section 11.8.(a) G.S. 108A-70.18(8) reads as rewritten:

"*§ 108A-70.18. Definitions.*

~~Unless~~ As used in this Part, unless the context clearly requires otherwise, the term:

. . .

(8) 'Uninsured' means the applicant for Program benefits ~~was not covered under any private or employer-sponsored comprehensive health insurance plan for the six-month period immediately preceding the date of application for Program benefits. Effective April 1, 1999, 'uninsured' means the applicant~~ is and was not covered under any private or employer-sponsored comprehensive health insurance plan for 60 days immediately preceding the date of application. The waiting periods required under this subdivision shall be waived ~~if~~ if:

a. ~~the~~ The child has been enrolled in Medicaid and has lost Medicaid ~~eligibility,~~ eligibility;

b. The child has lost health care benefits due to cessation of a nonprofit organization program that provides health care benefits to low-income ~~children, or~~ children;

c. The child has lost employer-sponsored comprehensive health care coverage due to termination of employment, cessation by the employer of employer-sponsored health coverage, or cessation of the employer's ~~business.~~ business; or

d. Health insurance benefits available to the family of a special needs child have been terminated due to a long-term disability or a substantial reduction in or limitation of lifetime medical benefits or benefit category. As used in this paragraph, 'special needs child' has the definition applied in G.S. 108A-70.23(a)."

Section 11.8.(b) The total amount of State funds expended for the Health Insurance Program for Children (NC Health Choice) in the 2000-2001 fiscal year shall not exceed the amount of State funds appropriated to match federal funds for the Program for the 2000-2001 fiscal year.

SUBPART 3. FACILITY SERVICES

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

EXTEND ADULT CARE HOME MORATORIUM/STUDY

Section 11.9.(a) Section 11.69(b) of S.L. 1997-443, as amended by Section 12.16C(a) of S.L. 1998-212, and as further amended by Section 1 of S.L. 1999-135, reads as rewritten:

"(b) Effective until ~~September 30, 2000,~~ September 30, 2001, the Department of Health and Human Services shall not approve the addition of any adult care home beds for any type home or facility in the State, except as follows:

(1) Plans submitted for approval prior to May 18, 1997, may continue to be processed for approval;

(2) Plans submitted for approval subsequent to May 18, 1997, may be processed for approval if the individual or organization submitting the plan demonstrates to the Department that on or before August 25, 1997, the individual or organization purchased real property, entered into a contract to purchase or obtain an option to purchase real property, entered into a binding real property lease arrangement, or has otherwise made a binding financial commitment for the purpose of establishing or expanding an adult care home facility. An owner of real property who entered into a contract prior to August 25, 1997, for the sale of an existing building together with land zoned for the development of not more than 50 adult care home beds with a proposed purchaser who failed to consummate the transaction may, after August 25, 1997, sell the property to

another purchaser and the Department may process and approve plans submitted by the purchaser for the development of not more than 50 adult care home beds. It shall be the responsibility of the applicant to establish, to the satisfaction of the Department, that any of these conditions have been met;

(3) Adult care home beds in facilities for the developmentally disabled with six beds or less which are or would be licensed under G.S. 131D or G.S. 122C may continue to be approved;

(4) If the Department determines that the vacancy rate of available adult care home beds in a county is fifteen percent (15%) or less of the total number of available beds in the county as of August 26, 1997, and no new beds have been approved or licensed in the county or plans submitted for approval in accordance with subdivision (1) or (2) of this section which would raise the vacancy rate above fifteen percent (15%) in the county, then the Department may accept and approve the addition of beds in that county; or

(5) If a county board of commissioners determines that a substantial need exists for the addition of adult care home beds in that county, the board of commissioners may request that a specified number of additional beds be licensed for development in their county. In making their determination, the board of commissioners shall give consideration to meeting the needs of Special Assistance clients. The Department may approve licensure of the additional beds from the first facility that files for licensure and subsequently meets the licensure requirements."

Section 11.9.(b) The Department of Health and Human Services shall study the various types of adult care homes covered by the moratorium enacted under Section 11.69(b) of S.L. 1997-443 and amended by Section 12.16C(a) of S.L. 1998-212 and S.L. 1999-135. The study shall identify adult care homes by predominant types of residents currently being served and shall recommend licensure categories appropriate to the population served. As part of this study, the Department shall identify current public funding available to residents of the identified adult care homes as well as additional funding sources appropriate to the population being served. Not later than March 1, 2001, the Department shall report the results of its study to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

USE OF FIRE PROTECTION FUND FOR EMERGENCY GENERATORS

Section 11.10. G.S. 122A-5.13 reads as rewritten:

"§ 122A-5.13. Adult Care Home, Group Home, and Nursing Home Fire Protection Fund authorized; authority.

(a) The North Carolina Housing Finance Agency shall establish an Adult Care Home, Group Home, and Nursing Home Fire Protection Fund (hereinafter 'Fire Protection Fund') to assist owners of adult care homes, group homes for developmentally disabled adults, and nursing homes with the purchase and installation of fire protection systems and emergency generators in existing and new adult care homes, group homes for developmentally disabled adults, and nursing homes. The Fire Protection Fund shall be a revolving fund.

(b) The Agency, in consultation with the Department of Health and Human Services, shall adopt rules for the management and use of the Fire Protection Fund. These rules at a minimum shall provide for the following:

(1) Financial incentives for owners of facilities who utilize Fire Protection Fund monies to install sprinkler systems instead of smoke detection equipment.

(2) Maximum loan amounts of one dollar and seventy-five cents ($1.75) per square foot for advanced smoke detectors and digital communication equipment, three dollars and seventy-five cents ($3.75) per square foot for residential sprinkler systems, and six dollars ($6.00) per square foot for institutional sprinkler systems.

(3) Interest rates from three percent (3%) to six percent (6%) for a period not to exceed 20 years for sprinkler systems and 10 years for smoke detection systems.

(4) Documentary verification that owners of facilities obtain fire protection systems and emergency generators at a reasonable cost.

(5) Acceleration of a loan when statutory fire protection requirements are not met by the facility for which the loan was made.

(6) Loan approval priority criteria that considers the frailty level of residents at a facility.

(7) Loan origination and servicing fees.

(c) Proceeds from the Fire Protection Fund, not to exceed ten thousand dollars ($10,000) annually, may be used to provide staff support to the North Carolina Housing Finance Agency for loan processing under this section and to the Department of Health and Human Services for review and approval of fire protection plans and inspection of fire protection systems."

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

STUDY MULTIUNIT ASSISTED HOUSING WITH SERVICES FACILITIES

Section 11.11. The North Carolina Study Commission on Aging shall study Multiunit Assisted Housing with Services (MAHS) facilities. The study shall include the following:

(1) What strategies may be employed at the State and local level to ensure registration of MAHS facilities with the Department of Health and Human Services, as required under G.S. 131D-2(a)(7a).
(2) Whether persons requesting access to MAHS facilities should be included in the assessment process that is part of the uniform portal of entry system.
(3) Whether an advocacy and oversight system for MAHS facilities should be developed that is comparable to the advocacy and oversight system in place for adult care homes.

Not later than February 1, 2001, the Commission shall report its findings and recommendations to the 2001 General Assembly and to the cochairs of the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Purcell, Plyler, Perdue, Odom

FUNDS FOR TRAINING PROGRAMS FOR RECRUITMENT OF CERTIFIED NURSING ASSISTANTS IN NURSING FACILITIES

Section 11.11A.(a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of five hundred thousand dollars ($500,000) for the 2000-2001 fiscal year shall be used for the development and implementation of on-site Internet training or other innovative training programs designed to improve recruitment and reduce turnover of certified nursing assistants in nursing facilities.

Section 11.11A.(b) The Community Colleges System Office shall work with nursing home providers to develop and implement the training program. The program shall be tested in at least five nursing facilities in the State.

Section 11.11A.(c) The Community Colleges System Office shall ensure that the program is evaluated by a committee composed of individuals representing the community colleges, the North Carolina Health Care Facilities Association, and the Division of Facility Services in the Department of Health and Human Services. Not later than June 30, 2001, the Community Colleges System Office shall report to the North Carolina Study Commission on Aging on the use of these funds and implementation of the program.

SUBPART 4. SOCIAL SERVICES

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

ADULT CARE HOMES REIMBURSEMENT RATE INCREASE/STATE AUDITOR STUDY

Section 11.12.(a) Section 11.22(e) of S.L. 1999-237 reads as rewritten:

"Section 11.22.(e) Effective October 1, 2000, the maximum monthly rate for residents in adult care home facilities shall be one thousand ~~sixteen~~ sixty-two dollars ~~($1,016)~~ ($1,062) per month per resident."

Section 11.12.(b) The Office of the State Auditor shall study the cost reimbursement system used to reimburse adult care homes for residents in those homes who receive public assistance. The study shall include an analysis of the financial information collected on the adult care homes by the Department of Health and Human Services controller's office. The study shall also analyze the impact of occupancy rates on the cost reimbursement system. The Office of the State Auditor shall report the results of the study to the members of the House Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources not later than March 1, 2001.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

EXTEND SPECIAL ASSISTANCE DEMONSTRATION PROJECT

Section 11.13. Section 11.21 of S.L. 1999-237 reads as rewritten:

"Section 11.21. The Department of Health and Human Services may use funds from the existing State/County Special Assistance for Adults budget to provide Special Assistance payments to eligible individuals in in-home living arrangements. These payments may be made for up to 400 individuals. These payments may be made for up to a two-year period beginning July 1, ~~1999,~~ 2000, and ending June 30, ~~2001.~~ 2002. To the maximum extent possible, the Department shall consider geographic balance in the dispersion of payments to individuals across the State. The Department shall make an interim report to the cochairs of the House of Representatives Appropriations Committee, the cochairs of the House of Representatives Appropriations Subcommittee on Health and Human Services and the cochairs of the Senate Appropriations Committee, the Chair of the Senate Appropriations Committee on Human Resources by June 30, ~~2000,~~ 2001, and a final report by October 1, ~~2001.~~ 2002. This report shall include the following information:

(1) A description of cost savings that could occur by allowing individuals eligible for State/County Special Assistance the option of remaining in the home.
(2) Which activities of daily living or other need criteria are reliable indicators for identifying individuals with the greatest need for income supplements for in-home living arrangements.
(3) How much case management is needed and which types of individuals are most in need of case management.
(4) The geographic location of individuals receiving payments under this section.
(5) A description of the services purchased with these payments.

(6) A description of the income levels of individuals who receive payments under this section and the impact on the Medicaid program.

(7) Findings and recommendations as to the feasibility of continuing or expanding the demonstration program."

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

CHILD WELFARE SYSTEM IMPROVEMENTS

Section 11.14.(a) Subsection (a) of Section 11.28 of S.L. 1999-237 reads as rewritten:

"Section 11.28.(a) The Division of Social Services, Department of Health and Human Services, shall report ~~semiannually~~ to the members of the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the activities of the State Child Fatality Review Team ~~and shall provide a final report to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Health and Human Services no later than April 1, 2000,~~ including recommendations for changes in the statewide child protection ~~system.~~ system no later than October 1 of each year."

Section 11.14.(b) Subsection (d) of Section 11.57 of S.L. 1997-443, as amended by Section 12.22 of S.L. 1998-212 and as amended by Section 11.28 of S.L. 1999-237, is repealed.

Section 11.14.(c) G.S. 131D-10.6A reads as rewritten:

"*§ 131D-10.6A. Training by the Division of Social Services required.*

(a) The Division of Social Services, Department of Health and Human Services, shall ~~continue the in-house training component that provides a mandated~~ require a minimum of 30 hours of preservice training for foster care parents either prior to licensure or within six months from the date a provisional license is issued pursuant to G.S. ~~131D-10.3, and 84 hours for foster care workers and adoption social workers~~ 131D-10.3 and a mandated minimum of 10 hours of continuing education for all foster care parents ~~and 18 hours for foster care workers and adoption social workers.~~ annually after the year in which a license is obtained.

(b) The Division of Social Services shall establish minimum training requirements for child welfare services staff. The minimum training requirements established by the Division are as follows:

(1) Child welfare services workers shall complete a minimum of 72 hours of preservice training before assuming direct client contact responsibilities.

(2) Child protective services workers shall complete a minimum of 18 hours of additional training that the Division of Social Services determines is necessary to adequately meet training needs.

(3) Foster care and adoption workers shall complete a minimum of 39 hours of additional training that the Division of Social

Services determines is necessary to adequately meet training needs.

(4) Child welfare services supervisors shall complete a minimum of 72 hours of preservice training before assuming supervisory responsibilities and a minimum of 54 hours of additional training that the Division of Social Services determines is necessary to adequately meet training needs.

(5) Child welfare services staff shall complete 24 hours of continuing education annually.

The Division of Social Services may grant an exception in whole or in part to the requirement under subdivision (1) of this subsection to child welfare workers who satisfactorily complete or are enrolled in a masters or bachelors program after July 1, 1999, from a North Carolina social work program accredited pursuant to the Council on Social Work Education. The program's curricula must cover the specific preservice training requirements as established by the Division of Social Services.

The Division of Social Services shall ensure that training opportunities are available for county departments of social services and consolidated human service agencies to meet the training requirements of this subsection."

Section 11.14.(d) G.S. 131D-10.6A(b), as enacted by subsection (b) of this section, applies to child welfare services staff initially hired on or after January 1, 1998.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

SPECIAL CHILDREN ADOPTION FUND

Section 11.15.(a) Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one million one hundred thousand dollars ($1,100,000) shall be used to support the Special Children Adoption Fund for the 2000-2001 fiscal year. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services. No local match shall be required as a condition for receipt of these funds. In accordance with State rules for allowable costs, the Special Children Adoption Fund may be used for post-adoption services for families whose incomes exceed two hundred percent (200%) of the federal poverty level.

Section 11.15.(b) Of the total funds appropriated for the Special Children Adoption Fund, four hundred thousand dollars ($400,000) shall be reserved for payment to participating private adoption agencies.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

SPECIAL NEEDS ADOPTIONS INCENTIVE FUND

Section 11.16. There is created a Special Needs Adoptions Incentive Fund to provide financial assistance to facilitate the adoption of certain children residing in licensed foster care homes, effective January 1, 2001. These funds shall be used to remove financial barriers to the adoption of these children and shall be available to foster care families who adopt children with special needs as defined by the Social Services Commission. These funds shall be matched by county funds.

This program shall not constitute an entitlement and is subject to the availability of funds.

The Social Services Commission shall adopt rules to implement the provisions of this section.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

CHILD WELFARE SERVICES DATA COLLECTION

Section 11.16A. The Department of Health and Human Services, Division of Social Services, shall report to the House of Representative Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division no later than April 1, 2001, on the following information for this State and for comparable states:

(1) Demographics on the population under the age of 18, including significant trends over a 5-year period.

(2) The number of child welfare cases, including significant trends over a 5-year period. Information regarding cases shall include separate data on reports, investigations, and substantiated cases. This report shall contain information on the definition of these terms.

(3) The total number of Child Welfare Services workers, including significant trends over a 5-year period.

(4) The total budget, from all available sources, for Child Welfare Services, including significant trends over a 5-year period.

The Department shall establish a mechanism for reporting this information on an annual basis and shall develop an estimate of the cost of complying with this Section.

The purpose of this reporting requirement is for the General Assembly to utilize this information as part of a rational decision-making process of identifying and meeting the needs of the Child Welfare Services system.

SUBPART 5. MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

NONMEDICAID REIMBURSEMENT CHANGES

Section 11.17. Section 11.7 of S.L. 1999-237 reads as rewritten:

"Section 11.7. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program. Hospitals that provide psychiatric inpatient care for multiply diagnosed adults who were identified as members of the Thomas S. class at the time of dissolution of the class, and other multiply diagnosed adults may be paid an additional incentive payment not to exceed fifteen percent (15%) of their regular daily per diem reimbursement.

The Department of Health and Human Services may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of paragraph one, the Department of Health and Human Services may negotiate with providers of medical services under the various Department of Health and Human Services programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

Maximum net family annual income eligibility standards for services in these programs shall be as follows:

Family Size	Medical Eye Care Adults	All Rehabilitation	Other
1	$ 4,860	$ 8,364	$ 4,200
2	5,940	10,944	5,300
3	6,204	13,500	6,400
4	7,284	16,092	7,500
5	7,821	18,648	7,900
6	8,220	21,228	8,300
7	8,772	21,708	8,800
8	9,312	22,220	9,300

The eligibility level for children in the Medical Eye Care Program in the Division of Services for the Blind shall be one hundred percent (100%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred ~~twenty-five~~ fifty percent ~~(125%)~~ (150%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical Antipsychotic Medication Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts, for the purchase of atypical antipsychotic medication and related services up to three hundred percent (300%) of the poverty level.

State financial participation in the Atypical Antipsychotic Medication Program for those enrollees who become gainfully employed is as follows:

Income Participation (% of poverty)	State Participation	Client
~~0-125%~~	~~100%~~	~~0%~~
~~126-140%~~	~~90%~~	~~10%~~
~~141-160%~~	~~80%~~	~~20%~~
~~161-180%~~	~~70%~~	~~30%~~
~~181-200%~~	~~60%~~	~~40%~~
~~201-220%~~	~~50%~~	~~50%~~
~~221-240%~~	~~40%~~	~~60%~~
~~241-260%~~	~~30%~~	~~70%~~
~~261-280%~~	~~20%~~	~~80%~~
~~281-300%~~	~~10%~~	~~90%~~
~~301%-over~~	~~0%~~	~~100%.~~
0-150%	100%	0%
151-200%	75%	25%
201-250%	50%	50%
251-300%	25%	75%
301% and over	0%	100%."

The Department of Health and Human Services shall contract at, or as close as possible to, Medicaid rates for medical services provided to residents of State facilities of the Department."

Requested by: Representative Culpepper, Senators Martin of Guilford, Plyler, Perdue, Odom

AREA BOARD MEMBER PER DIEM

Section 11.18. G.S. 122C-120 reads as rewritten:

"§ *122C-120. Compensation of area board members.*

(a) Area board members may receive as compensation for their services per diem and a subsistence allowance for each day during which they are engaged in the official business of the area board. The amount of the per diem and subsistence allowances shall be established by the area ~~board and the amounts shall not exceed those authorized by G.S. 138-5 for State boards.~~ board. The amount of per diem allowance shall not exceed fifty dollars ($50.00). Reimbursement of subsistence expenses shall be at the rates allowed to State officers and employees under G.S. 138-6(a)(3).

(b) Area board members may be reimbursed for all necessary travel expenses and registration fees in amounts fixed by the board."

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

CHILD RESIDENTIAL TREATMENT SERVICES PROGRAM

Section 11.19.(a) The Department of Health and Human Services shall establish the Child Residential Treatment Services Program. The Program shall be implemented by the Department in consultation with the Office of Juvenile Justice and other affected State agencies. The purpose of the Program is to provide appropriate and medically necessary residential treatment alternatives for children at risk of institutionalization or other out-of-home placement. Program funds shall be targeted for non-Medicaid eligible children and may also be used for Medicaid-eligible children. Program funds may also be used to expand the Child Mental Health Systems of Care Project. The Program shall include the following:

(1) Behavioral health screenings for all children at risk of institutionalization or other out-of-home placement.
(2) Appropriate and medically necessary residential treatment placements, including placements for youths needing substance abuse treatment services and for specialized populations such as deaf children, children with serious emotional disturbances, and sexually aggressive youth.
(3) Multidisciplinary case management services, as needed.
(4) A system of utilization review specific to the nature and design of the Program.
(5) Mechanisms to ensure that children are not placed in department of social services custody for the purpose of obtaining mental health residential treatment services.
(6) Mechanisms to maximize current State and local funds and to expand use of Medicaid funds to accomplish the intent of this Program.
(7) Other appropriate components to accomplish the Program's purpose.
(8) The Secretary of the Department of Health and Human Services may enter into contracts with residential service providers.

Section 11.19.(b) The Department shall not allocate funds appropriated for Program services until a Memorandum of Agreement has been executed between the Department and other affected State agencies. The Memorandum of Agreement shall address specifically the roles and responsibilities of the various departmental divisions and affected State agencies involved in the administration, financing, care, and placement of children at risk of institutionalization or other out-of-home placement. The Department shall not allocate funds appropriated in this act for the Program until Memoranda of Agreement between local departments of social services and area mental health programs, and the Administrative Office of the Courts, and the Office of Juvenile Justice, as appropriate, are executed to effectuate the purpose of the Program. The Memoranda of Agreement shall address issues pertinent to local implementation of the Program.

Section 11.19.(c) Notwithstanding any other provision of law to the contrary, services under the Child Residential Treatment Services Program are not an entitlement for non-Medicaid eligible children served by the Program.

Section 11.19.(d) The Department of Health and Human Services, in conjunction with the Office of Juvenile Justice and other affected agencies, shall report on the following:

(1) The number and other demographic information of children served.
(2) The amount and source of funds expended to implement the Program.
(3) Information regarding the number of children screened, specific placement of children, and treatment needs of children served.
(4) The average length of stay in residential treatment, transition, and return to home.
(5) The number of children diverted from institutions or other out-of-home placements such as training schools and State psychiatric hospitals.
(6) Recommendations on other areas of the Program that need to be improved.
(7) Other information relevant to successful implementation of the Program.

The Department shall submit a progress report on implementation of the Program not later than February 1, 2001, and a final report not later than May 1, 2002, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom, Lucas, Gulley

FUNDS FOR CHILD AND ADOLESCENT RESIDENTIAL UNIT AT MURDOCH CENTER

Section 11.20.(a) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of one million two hundred thousand dollars ($1,200,000) for the 2000-2001 fiscal year shall be used as follows:

(1) To develop and operate a six-bed short-term residential unit to meet the needs of autistic children statewide whose behaviors place them at serious risk of institutionalization. The unit shall be developed within the Murdoch Mental Retardation Center and supported by specialized staff within the Murdoch Mental Retardation Center; and

(2) To develop and operate a four-bed residential program for autistic children statewide whose behaviors place them at serious risk of institutionalization. The program may offer short-term diagnostic/prescriptive services or comprehensive interventions in order to transition children back to their homes and communities. The program shall be developed and supported by staff from the Murdoch Mental Retardation Center.

Section 11.20.(b) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of three hundred twenty-six thousand dollars ($326,000) for the 2000-2001 fiscal year shall be used to provide residential services for children with autism.

Section 11.20.(c) The Department shall submit progress reports on December 1, 2000, and on April 1, 2001, on its compliance with this section. The Department shall submit a final report on January 1, 2002. The reports shall be submitted to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

SERVICES TO CHILDREN AT RISK FOR INSTITUTIONALIZATION OR OTHER OUT-OF-HOME PLACEMENT

Section 11.21.(a) In order to ensure that children at risk for institutionalization or other out-of-home placement are appropriately served by the mental health, developmental disabilities, and substance abuse services system, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the following with respect to services provided to these children:

(1) Provide only those treatment services that are medically necessary.

(2) Implement utilization review of services provided.

(3) Effective immediately:

a. Eliminate formerly court-mandated Willie M. or Eligible Violent and Assaultive Children Program administration, infrastructure, categorical funding designation, and eligibility determination process at the State and local level;
b. Identify savings realized from elimination of Program administration and infrastructure at the State and local level;
c. Adopt the following guiding principles for the provision of services:
   1. Service delivery system must be outcome-oriented and evaluation-based.
   2. Services should be delivered as close as possible to the consumer's home.
   3. Services selected should be those that are most efficient in terms of cost and effectiveness.
   4. Services should not be provided solely for the convenience of the provider or the client.
   5. Families and consumers should be involved in decision making throughout treatment planning and delivery.
d. Implement all of the following cost reduction strategies:
   1. Preauthorization for all services except emergency services.
   2. Levels of care to assist in the development of treatment plans.
   3. Clinically appropriate services.
   4. State review of individualized service plans for all children served to ensure that service plans focus on delivery of appropriate services rather than optimal treatment and habilitation plans.

(4) Collaborate with other affected State agencies such as the Office of Juvenile Justice and the Administrative Office of the Courts, and with local departments of social services and area mental health programs to eliminate cost-shifting and facilitate cost-sharing among these governmental agencies with respect to the treatment and placement services.

Section 11.21.(b) The Department shall submit a progress report on implementation of this section not later than February 1, 2001, and a final report not later than May 1, 2002, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division.

Section 11.21.(c) G.S. 122C-3(13a) is repealed.

Section 11.21.(d) G.S. 122C-112(14) is repealed.

Section 11.21.(e) Part 7 of Article 4 of Chapter 122C of the General Statutes is repealed. This subsection applies to petitions for contested case review filed on and after the effective date of this act.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

SERVICES TO MULTIPLY-DIAGNOSED ADULTS

Section 11.22.(a) In order to ensure that multiply-diagnosed adults are appropriately served by the mental health, developmental disabilities, and substance abuse services system, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the following with respect to services provided to these adults:

(1) Provide only those treatment services that are medically necessary.
(2) Implement utilization review of services provided.
(3) Effective immediately:
   a. Eliminate formerly court-mandated Thomas S. Program administration, infrastructure, and categorical funding designation at the local level, while continuing to provide services to former Thomas S. clients and other multiply-diagnosed adults;
   b. Identify savings realized from elimination of Program administration and infrastructure;
   c. Adopt the following guiding principles for the provision of services:
      1. Service delivery system must be outcome oriented and evaluation based.
      2. Services should be delivered as close as possible to the consumer's home.
      3. Services selected should be those that are most efficient in terms of cost and effectiveness.
      4. Services should not be provided solely for the convenience of the provider or the client.
      5. Families and consumers should be involved in decision-making throughout treatment planning and delivery; and
   d. Implement all of the following cost reduction strategies:
      1. Preauthorization for all services except emergency services.
      2. Criteria for determining medical necessity.
      3. Clinically appropriate services.
      4. State review of (i) individualized service plans for all adults served to ensure that service plans focus on delivery of appropriate services rather than optimal treatment and habilitation plans, and (ii) staffing patterns of residential services.

Section 11.22.(b) No State funds shall be used for the purchase of single-family or other residential dwellings to house multiply-diagnosed adults.

Section 11.22.(c) The Department shall submit a progress report on implementation of this section not later than February 1, 2001, and a final report not later than May 1, 2002, to the House of

Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Phillips, Plyler, Perdue, Odom

FUNDS FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES OVERSIGHT COMMITTEE

Section 11.23.(a) Of the funds appropriated in this act to the Department of Health and Human Services, the Department shall transfer the sum of three hundred fifty thousand dollars ($350,000) to the General Assembly, Legislative Services Office, for the 2000-2001 fiscal year. These funds shall be used for the mental health, developmental disabilities, and substance abuse services system reform initiative proposed in Senate Bill 1217 and House Bill 1519, 1999 General Assembly, Regular Session 2000. The funds shall be used specifically for a comprehensive study of developmental disabilities services and administration and to hire professional staff to assist the Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services. These funds may be transferred for these purposes if and only if Senate Bill 1217 or House Bill 1519, 1999 General Assembly, becomes law.

Section 11.23.(b) The Department shall study whether a new division of developmental disabilities should be established in the Department. Not later than January 1, 2001, the Department shall report its findings and recommendations to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources.

Section 11.23.(c) The Department of Health and Human Services shall proceed with plans for the construction of a new State psychiatric hospital to replace Dorothea Dix hospital. Not later than October 1, 2000, the Department shall report the status of the plans including identification of potential sites for the new facility. The report shall be made to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, to the Senate Appropriations Committee on Human Resources, and the House of Representatives Appropriations Subcommittee on Health and Human Services.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES RESERVE FOR SYSTEM REFORM AND OLMSTEAD DECISION

Section 11.24.(a) There is created in the Office of State Budget and Management the Mental Health, Developmental

Disabilities, and Substance Abuse Services Reserve for System Reform and Olmstead. The purposes of the Reserve are to:

(1) Provide start-up funds for programs and services that provide community alternatives for individuals currently residing in the State's mental health, developmental disabilities, and substance abuse services institutions.

(2) Facilitate the State's compliance with the United States Supreme Court decision in Olmstead v. L.C. and E.W.

(3) Facilitate reform of the mental health, developmental disabilities, and substance abuse services system.

Section 11.24.(b) Funds appropriated to the Reserve created in subsection (a) of this section shall be used to:

(1) Pay onetime expenditures that will not impose additional financial obligations on the State, and

(2) Establish or expand community-based services if sufficient recurring funds can be identified within the Department from funds currently budgeted for mental health, developmental disabilities, and substance abuse services, area mental health programs, or local government.

Section 11.24.(c) Before allocating funds from the Reserve, the Director of the Budget shall certify that the planned uses of the funds are in compliance with this section and do not constitute or will not create an ongoing financial obligation to the State.

Section 11.24.(d) Funds in the Mental Health, Developmental Disabilities, and Substance Abuse Services Reserve for System Reform and Olmstead shall not revert to the General Fund but shall remain in the Reserve to be used as authorized in this section.

Section 11.24.(e) The Department of Health and Human Services shall report periodically to the Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services and to the Joint Legislative Commission on Governmental Operations on any actions taken under this section.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

EARLY INTERVENTION SERVICES

Section 11.25. Section 11.42 of S.L. 1999-237 reads as rewritten:

"Section 11.42.(a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two hundred three thousand dollars ($203,000) for the 1999-2000 fiscal year and the sum of ~~six hundred ten~~ eight hundred sixty thousand dollars ~~($610,000)~~ ($860,000) for the 2000-2001 fiscal year shall be used to implement two recommendations from the Interagency Coordinating Council's "Study on Early Intervention Services for Children Ages Birth to Five Years," dated March 1999. The Department of Health and Human Services, the Department of Public Instruction, and The University of North Carolina's Division TEACCH (Treatment and Education of Autistic and other Communications Handicapped

Children and Adults), shall participate jointly, in collaboration with the Interagency Coordinating Council, in the planning, design, and implementation of the following provisions:

(1) Of the funds allocated by this subsection, the sum of seventy-eight thousand dollars ($78,000) in the 1999-2000 fiscal year and the sum of ~~one hundred ten~~ three hundred thousand dollars ~~($110,000)~~ ($300,000) in the 2000-2001 fiscal year shall be used to plan, design, and implement an integrated, interagency database for children with or at risk for disabilities who receive early intervention services. The purpose of the database is to:
   a. Assist in identifying gaps in services;
   b. Project and plan for future service needs;
   c. Improve the quality and accessibility of services; and
   d. Document outcomes of early intervention services.

   This database shall be compatible with the State Board of Education's new Student Information Management System. These agencies shall initiate use of the database in a pilot program in at least one community by July 1, 2000, and shall evaluate this pilot for statewide implementation by July 1, 2001. Any local education agency participating in the pilot program shall provide the same data for children in the preschool program for children with disabilities as is provided by the Department of Health and Human Services for children served in the infant-toddler program. The agencies shall submit a progress report by April 1, 2000, to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

(2) Of the funds allocated by this subsection, the sum of one hundred twenty-five thousand dollars ($125,000) in fiscal year 1999-2000 and the sum of five hundred sixty thousand dollars ~~($500,000)~~ ($560,000) in fiscal year 2000-2001 shall be used to plan for and implement regional transdisciplinary teams to provide training, technical assistance, and other support services to existing early intervention agencies and providers. The teams will maintain expertise on low incidence populations, such as children with visual and hearing impairments, autism, and child mental health needs. These agencies shall implement a pilot program establishing a regional transdisciplinary team no later than March 2000. These agencies shall submit an interim report by March 15, 2000, and a final plan for statewide implementation of the transdisciplinary teams by March 15, 2001, to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Section 11.42.(b) The North Carolina Schools for the Deaf and other agencies providing early intervention services to children from birth through five years of age shall implement procedures to ensure that:

(1) Parents of children newly identified with hearing loss and determined to be eligible for services are informed of the services available to them through Beginnings for Parents of ~~Hearing Impaired Children, Inc.;~~ Children Who Are Deaf or Hard of Hearing, Inc.; and

(2) Beginnings for Parents of ~~Hearing Impaired Children, Inc.,~~ Children Who Are Deaf or Hard of Hearing, Inc., with the consent of parents, is notified of these children in a timely and appropriate manner."

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

LICENSURE EXCEPTION FOR CERTAIN NONPROFIT SUBSTANCE ABUSE FACILITIES

Section 11.25A. G.S. 122C-22(a) reads as rewritten:

"(a) The following are excluded from the provisions of this Article and are not required to obtain licensure under this Article:

(1) Physicians and psychologists engaged in private office practice;

(2) General hospitals licensed under Article 5 of Chapter 131E of the General Statutes, that operate special units for the mentally ill, developmentally disabled, or substance abusers;

(3) State and federally operated facilities;

(4) Adult care homes licensed under Chapter 131D of the General Statutes;

(5) Developmental child care centers licensed under Article 7 of Chapter 110 of the General Statutes;

(6) Persons subject to licensure under rules of the Social Services Commission;

(7) Persons subject to rules and regulations of the Division of Vocational Rehabilitation Services; and

(8) Facilities that provide occasional respite care for not more than two individuals at a time; provided that the primary purpose of the facility is other than as defined in G.S. 122C-3(14).

(9) Twenty-four-hour nonprofit facilities established for the purposes of shelter care and recovery from alcohol or other drug addiction through a 12-step, self-help, peer role modeling, and self-governance approach."

SUBPART 6. CHILD DEVELOPMENT

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

TRANSFER FUNDS FOR CLIENT SERVICES

Section 11.26. The sum of three million dollars ($3,000,000) appropriated to the Division of Child Development in this act shall be transferred to the Division of Social Services to fund client services provided by the county departments of social services.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

CHILD CARE SUBSIDY RATES

Section 11.27.(a) Section 11.47 of S.L. 1999-237 reads as rewritten:

"Section 11.47.(a) The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

Section 11.47.(b) Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for family size. Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	9%
4-5	8%
6 or more	7%

Section 11.47.(c) Payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

(1) Effective October 1, 1999, religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that meet the minimum licensing standards that are participating in the subsidized child care program shall be paid the ~~county market~~ subsidy rate or the rate they charge privately paying parents, whichever is lower.

(2) Effective October 1, 1999, religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that are receiving a higher rate than the ~~market~~ subsidy rates that will be implemented with this provision shall continue to receive that higher rate for a period of three years from the effective date of this section.

(3) Effective October 1, 1999, licensed child care centers with two or more stars may receive a higher payment rate per child per month as follows: two stars - $14.00, three stars - $17.00, four stars - $20.00, and five stars - $23.00. Effective January 1, 2000, licensed child care homes with two or more stars may receive a higher payment rate per child per month as follows: two stars - $14.00, three stars - $17.00, four stars - $20.00, and five stars - $23.00. This subdivision expires September 1, 2000.

(3a) Effective September 1, 2000, licensed child care centers and homes with two or more stars shall receive the subsidy rate for that rated quality level for that age group or the rate they charge privately paying parents, whichever is lower.

(4) Nonlicensed homes shall receive fifty percent (50%) of the ~~county market~~ subsidy rate or the rate they charge privately paying parents, whichever is lower.

(5) Maximum payment rates shall also be calculated periodically by the Division of Child Development for transportation to and from child care provided by the child care provider, individual transporter, or transportation agency, and for fees charged by providers to parents. These payment rates shall be based upon information collected by market rate surveys.

~~Section 11.47.(d) Provision of payment rates for child care providers in counties who do not have at least 75 children in each age group for center-based and home-based care are as follows:~~

~~(1) Payment rates shall be set at the statewide market rate for licensed child care centers and homes.~~

~~(2) If it can be demonstrated that the application of the statewide market rate to a county with fewer than 75 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.~~

Section 11.47.(e) A market rate shall be calculated for child care centers and homes ~~that meet minimum licensing standards~~ at each rated quality level for each county and for each age group or age category of enrollees and shall be representative of fees charged to unsubsidized privately paying parents for each age group of enrollees within the county. The Division of Child Development shall also calculate a statewide market rate at each rated quality level for each age category. The Division of Child Development may also calculate regional market rates at each rated quality level for each age group and age category.

Section 11.47.(f) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the program that provides for the purchase of care in child care facilities for minor children of needy families. No separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

County departments of social services or other local contracting agencies shall not use a provider's failure to comply with requirements

in addition to those specified in this subsection as a condition for reducing the provider's subsidized child care rate.

Section 11.47.(g) Payment for subsidized child care services provided with Work First Block Grant funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program."

Section 11.27.(b) Article 7 of Chapter 110 of the General Statutes is amended by adding a new section to read:

"*110-109. Child care subsidy rates.*

(a) The Department shall conduct a statewide market rate study of child care facilities at least once every two years. The study shall include a survey of all licensed facilities. Based on the results of this study, the Department shall establish a market rate for child care centers and homes at each rated quality level for each county and for each age group. The Department shall also calculate a statewide market rate at each rated quality level for each age group. The market rate shall be set at the seventy-fifth percentile of fees charged to unsubsidized, privately paying parents at each rated quality level for each age group.

(b) Within six months of completing a statewide market rate study, the Department shall publish the results of that study and implement market rates based on the results of that study.

(c) When a county has at least 75 children in an age group at a particular rated quality level, the subsidy rate is the county market rate for that age group at that rated quality level. When a county has fewer than 75 children in an age group at a particular rated quality level, the subsidy rate is the statewide market rate for that age group at that rated quality level.

(d) Notwithstanding the provisions of subsection (c) of this section, when it can be demonstrated that the statewide market rate is lower than the county market rate and that setting the subsidy rate at the statewide market rate would inhibit the ability of a county to purchase child care for low-income children, the subsidy rate shall be the county market rate."

Section 11.27.(c) The first market rate study required by G.S. 110-109, as enacted by subsection (b) of this section, shall be completed no later than April 1, 2001.

Section 11.27.(d) The Department of Health and Human Services shall conduct a one-time interim market rate study that shall be completed no later than April 1, 2002. This interim market rate study shall incorporate the results of the April 2001 study and shall contain a survey of rates charged at child care facilities that have changed their rate quality level since the survey conducted for the April 2001 study. The Department shall implement the results of this study within six months of its completion.

Section 11.27.(e) Noncitizen families who reside in this State legally shall be eligible for child care subsidies if all other conditions of eligibility are met. If all other conditions of eligibility are met, noncitizen families who reside in this State illegally shall be eligible

for child care subsidies only if at least one of the following conditions is met:

(1) The child for whom a child care subsidy is sought is receiving child protective services or foster care services.
(2) The child for whom a child care subsidy is sought is developmentally delayed or at risk of being developmentally delayed.
(3) The child for whom a child care subsidy is sought is a citizen of the United States.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Baddour, Senators Martin of Guilford, Plyler, Perdue, Odom, Cooper

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES

Section 11.28.(a) G.S. 143B-168.12(a) reads as rewritten:

"(a) In order to receive State funds, the following conditions shall be met:

(1) The North Carolina Partnership shall have a Board of Directors consisting of the following 25 members:
   a. The Secretary of Health and Human Services, ex officio, or the Secretary's designee;
   b. Repealed by Session Laws 1997, c. 443, s. 11A.105.
   c. The Superintendent of Public Instruction, ex officio, or the Superintendent's designee;
   d. The President of the Community Colleges System, ex officio, or the President's designee;
   e. Three members of the public, including one child care provider, one other who is a parent, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate;
   f. Three members of the public, including one who is a parent, one other who is a representative of the faith community, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives;
   g. Twelve members, appointed by the Governor. Three of these 12 members shall be members of the party other than the Governor's party, appointed by the Governor. Seven of these 12 members shall be appointed as follows: one who is a child care provider, one other who is a pediatrician, one other who is a health care provider, one other who is a parent, one other who is a member of the business community, one other who is a

member representing a philanthropic agency, and one other who is an early childhood educator;

h. Repealed by Session Laws 1998-212, s. 12.37B(a).

h1. The Chair of the North Carolina Partnership Board shall be appointed by the Governor;

i. Repealed by Session Laws 1998-212, s. 12.37B(a).

j. One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the Senate;

k. One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the House of Representatives;

l. One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the Senate; and

m. One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the House of Representatives.

All members appointed to succeed the initial members and members appointed thereafter shall be appointed for three-year terms. Members may succeed themselves.

All appointed board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the North Carolina Partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the North Carolina Partnership regarding the disbursement of funds.

All ex officio members are voting members. Each ex officio member may be represented by a designee. These designees shall be voting members. No members of the General Assembly shall serve as members.

The North Carolina Partnership may establish a nominating committee and, in making their recommendations of members to be appointed by the General Assembly or by the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Majority Leader of the Senate, the Majority Leader of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives, and the Governor shall consult with and consider the recommendations of this nominating committee.

The North Carolina Partnership may establish a policy on members' attendance, which policy shall include provisions for reporting absences of at least

three meetings immediately to the appropriate appointing authority.

Members who miss more than three consecutive meetings without excuse or members who vacate their membership shall be replaced by the appropriate appointing authority, and the replacing member shall serve either until the General Assembly and the Governor can appoint a successor or until the replaced member's term expires, whichever is earlier.

The North Carolina Partnership shall establish a policy on membership of the local board, which policy shall include the requirement that all local board members, other than any member appointed because of a position held by that individual, be residents of the county or the partnership region they are representing. No member of the General Assembly shall serve as a member of a local board. Within these requirements for local board membership, the North Carolina Partnership shall allow local partnerships that are regional to have flexibility in the composition of their boards so that all counties in the region have adequate representation.

All appointed local board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the partnership regarding the disbursement of funds.

(2) The North Carolina Partnership and the local partnerships shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department.

(3) The North Carolina Partnership shall oversee the development and implementation of the local demonstration projects as they are selected and shall approve the ongoing plans, programs, and services developed and implemented by the local partnerships and hold the local partnerships accountable for the financial and programmatic integrity of the programs and services. The North Carolina Partnership may contract at the State level to obtain services or resources when the North Carolina Partnership determines it would be more efficient to do so.

In the event that the North Carolina Partnership determines that a local partnership is not fulfilling its mandate to provide programs and services designed to meet

the developmental needs of children in order to prepare them to begin school healthy and ready to succeed and is not being accountable for the programmatic and fiscal integrity of its programs and services, the North Carolina Partnership may suspend all funds to the partnership until the partnership demonstrates that these defects are corrected. Further, at its discretion, the North Carolina Partnership may assume the managerial responsibilities for the partnership's programs and services until the North Carolina Partnership determines that it is appropriate to return the programs and services to the local partnership.

(4) The North Carolina Partnership shall develop and implement a comprehensive standard fiscal accountability plan to ensure the fiscal integrity and accountability of State funds appropriated to it and to the local partnerships. The standard fiscal accountability plan shall, at a minimum, include a uniform, standardized system of accounting, internal controls, payroll, fidelity bonding, chart of accounts, and contract management and monitoring. The North Carolina Partnership may contract with outside firms to develop and implement the standard fiscal accountability plan. All local partnerships shall be required to participate in the standard fiscal accountability plan developed and adopted by the North Carolina Partnership pursuant to this subdivision.

(5) The North Carolina Partnership shall develop a ~~centralized~~ regional accounting and contract management system which incorporates features of the required standard fiscal accountability plan described in subdivision (4) of subsection (a) of this section. All local partnerships shall participate in the regional accounting and contract management system. ~~The following local partnerships shall be required to participate in the centralized accountability system developed by the North Carolina Partnership pursuant to this subdivision:~~

~~a. Local partnerships which have significant deficiencies in their accounting systems, internal controls, and contract management systems, as determined by the North Carolina Partnership based on the annual financial audits of the local partnerships conducted by the Office of the State Auditor; and~~

~~b. Local partnerships which are in the first two years of operation following their selection. At the end of this two-year period, local partnerships shall continue to participate in the centralized accounting and contract management system. With the approval of the North Carolina Partnership, local partnerships may perform accounting and contract management functions at the local level using the standardized and uniform accounting~~

~~system, internal controls, and contract management systems developed by the North Carolina Partnership. Local partnerships which otherwise would not be required to participate in the centralized accounting and contract management system pursuant to this subdivision may voluntarily choose to participate in the system. Participation or nonparticipation shall be for a minimum of two years, unless, in the event of nonparticipation, the North Carolina Partnership determines that any partnership's annual financial audit reveals serious deficiencies in accounting or contract management.~~

(6) The North Carolina Partnership shall develop a formula for allocating direct services funds appropriated for this purpose to local partnerships.

(7) The North Carolina Partnership may adjust its allocations by up to ten percent (10%) on the basis of local partnerships' performance assessments. In determining whether to adjust its allocations to local partnerships, the North Carolina Partnership shall consider whether the local partnerships are meeting the outcome goals and objectives of the North Carolina Partnership and the goals and objectives set forth by the local partnerships in their approved annual program plans.

The North Carolina Partnership may use additional factors to determine whether to adjust the local partnerships' allocations. These additional factors shall be developed with input from the local partnerships and shall be communicated to the local partnerships when the additional factors are selected. These additional factors may include board involvement, family and community outreach, collaboration among public and private service agencies, and family involvement.

On the basis of performance assessments, local partnerships annually shall be rated "superior", "satisfactory", or "needs improvement". ~~Local partnerships rated "superior" shall receive, to the extent that funds are available, a ten percent (10%) increase in their annual funding allocation. Local partnerships rated "satisfactory" shall receive their annual funding allocation. Local partnerships rated "needs improvement" shall receive up to ninety percent (90%) of their annual funding allocation.~~

The North Carolina Partnership may contract with outside firms to conduct the performance assessments of local partnerships.

(8) The North Carolina Partnership shall establish a local partnership advisory committee comprised of 15 members. Eight of the members shall be chairs of local partnerships' board of directors, and seven shall be staff of local partnerships. Members shall be chosen by the Chair of the

North Carolina Partnership from a pool of candidates nominated by their respective boards of directors. The local partnership advisory committee shall serve in an advisory capacity to the North Carolina Partnership and shall establish a schedule of regular meetings. Members shall be chosen from local partnerships on a rotating basis. The advisory committee shall annually elect a chair from among its members.

(9) The North Carolina Partnership shall report (i) quarterly to the Joint Legislative Commission on Governmental Operations and (ii) to the General Assembly and the Governor on the ongoing progress of all the local partnerships' work, including all details of the use to which the allocations were put, and on the continuing plans of the North Carolina Partnership and of the Department, together with legislative proposals, including proposals to implement the program statewide."

Section 11.28.(b) G.S. 143B-168.13(6) reads as rewritten:

"(6) Annually update its funding ~~formula~~ formula, in collaboration with the North Carolina Partnership for Children, Inc., using the most recent data available. These amounts shall serve as the basis for determining 'full funding' amounts for each local partnership."

Section 11.28.(c) G.S. 143B-168.15(b) reads as rewritten:

"(b) Depending on local, regional, or statewide needs, funds may be used to support activities and services that shall be made available and accessible to providers, children, and families on a voluntary basis. Of the funds allocated to local partnerships ~~that are designated by the Secretary~~ for direct services, ~~seventy-five~~ seventy percent ~~(75%)~~ (70%) of the funds spent in each year shall be used ~~for any one or more of the following activities and services:~~

~~(1) Child care services, including:~~

~~a. Child care subsidies to reduce waiting lists;~~

~~b. Raising the county child care subsidy rate to the State market rate, if applicable, in return for improvements in the quality of child care services;~~

~~c. Raising the income eligibility for child care subsidies to seventy-five percent (75%) of the State median family income;~~

~~d. Start-up funding for child care providers;~~

~~e. Assistance to enable child care providers to conform to licensing and building code requirements;~~

~~f. Child care resources and referral services;~~

~~g. Enhancement of the quality of child care provided;~~

~~h. Technical assistance for child care providers;~~

~~i. Quality grants for child care centers or family child care homes;~~

~~j. Expanded services or enhanced rates for children with special needs;~~

~~k. Head Start services;~~
~~l. Development of comprehensive child care services that include child health and family support;~~
~~m. Activities to reduce staff turnover;~~
~~n. Activities to serve children with special needs;~~
~~o. Transportation services related to providing child care services;~~
~~p. Evaluation of plan implementation of child care services; and~~
~~q. Needs and resources assessments for child careservices.~~

~~(2) Family- and child-centered services, including early childhood education and child development services, including:~~
~~a. Enhancement of the quality of family- and child-centered services provided;~~
~~b. Technical assistance for family- and child-centered services;~~
~~c. Needs and resource assessments for family- and child-centered services;~~
~~d. Home-centered services; and~~
~~e. Evaluation of plan implementation of family- and child-centered services.~~

~~(3) Other appropriate activities and services for child care providers and for family- and child-centered services, including:~~
~~a. Staff and organizational development, leadership and administrative development, technology assisted education, and long-range planning; and~~
~~b. Procedures to ensure that infants and young children receive needed health, immunization, and related services.~~

in child care related activities and early childhood education programs that improve access to child care and early childhood education services, develop new child care and early childhood education services, and improve the quality of child care and early childhood education services in all settings."

Section 11.28.(d) Effective September 1, 2000, G.S. 143B-168.15(g) reads as rewritten:

"(g) Not less than thirty percent (30%) of the funds spent in each year of each local partnership's direct services allocation shall be used to expand child care subsidies. To the extent practicable, these funds shall be used to enhance the affordability, availability, and quality of child care services as described in this section. ~~The local partnerships shall give priority for the use of these funds to augmenting the State's supplemental subsidy payment rate per child per month for licensed child care centers and homes earning a rated license that exceeds the minimum licensing standards.~~ The North Carolina Partnership may increase this percentage requirement up to a maximum of fifty percent (50%) when, based upon a significant local waiting list for subsidized

child care, the North Carolina Partnership determines a higher percentage is justified."

Section 11.28.(e) Subsection (c) of Section 11.48 of S.L. 1999-237 is repealed.

Section 11.28.(f) Subsection (h) of Section 11.48 of S.L. 1999-237 is repealed.

Section 11.28.(g) Subsection (i) of Section 11.48 of S.L. 1999-237 reads as rewritten:

"Section 11.48.(i) The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the total amount budgeted for the Program in each fiscal year of the biennium as follows: contributions of cash equal to at least ~~ten~~ fifteen percent ~~(10%)~~ (15%) and in-kind donated resources equal to no more than ~~ten~~ five percent ~~(10%)~~ (5%) for a total match requirement of twenty percent (20%) for each fiscal year. The North Carolina Partnership for Children, Inc., may carryforward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding fiscal year. ~~Any program funding expended for child care subsidies during the previous 12 months is excluded from the match requirement of this subsection.~~ Only in-kind contributions that are ~~quantifiable, as determined in the Smart Start Performance Audit,~~ quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

(1) Be verifiable from the contractor's records;
(2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations;
(3) Not include expenses funded by State funds;
(4) Be supplemental to and not supplant preexisting resources for related program activities;
(5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives;
(6) Be otherwise allowable under federal or State law;

(7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children, Inc., or the local partnership; and

(8) Be reported to the North Carolina Partnership for Children, Inc., or the local partnership by the contractor in the same manner as reimbursable expenses.

The North Carolina Partnership for Children, Inc., shall establish uniform guidelines and reporting format for local partnerships to document the qualifying expenses occurring at the contractor level. Local partnerships shall monitor qualifying expenses to ensure they have occurred and meet the requirements prescribed in this subsection.

Failure to obtain a twenty percent (20%) match by ~~May 1~~ June 30 of each fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for ~~the next~~ a subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly."

Section 11.28.(h) Subsection (m) of Section 11.48 of S.L. 1999-237 reads as rewritten:

"Section 11.48.(m) There is allocated from the funds appropriated to the Department of Health and Human Services, Division of Child Development, in this act, the sum of fifty-nine million five hundred thousand dollars ($59,500,000) for the 1999-2000 fiscal year and the sum of ~~seventy-eight million nine hundred twenty-eight thousand eight hundred twenty-six dollars ($78,928,826)~~ one hundred twenty-two million eight hundred seventy-eight thousand seventy-six dollars ($122,878,076) for the 2000-2001 fiscal year to be used as follows:

(1) The sum of fifty-eight million dollars ($58,000,000) in the 1999-2000 fiscal year and the sum of ~~seventy-eight million nine hundred twenty-eight thousand eight hundred twenty-six dollars ($78,928,826)~~ one hundred twenty-one million four hundred thirteen thousand seven hundred twenty-five dollars ($121,413,725) in the 2000-2001 fiscal year shall be used to administer and deliver services in all 100 counties. These funds may be used as financial incentives to encourage regionalization at the local level and to complete development of contracting and accounting systems at the local level. Any funds used to encourage regionalization or to complete development of contracting and accounting systems at the local level shall not be included in computations affecting the administrative cost limitations under subsection (e) of this section.

(2) The North Carolina Partnership for Children, Inc., may use the sum of one million five hundred thousand dollars

($1,500,000) in the 1999-2000 fiscal year and the sum of five hundred thousand dollars ($500,000) in the 2000-2001 fiscal year to assist local partnerships in their efforts to develop local collaboration. It is the intent of the General Assembly that these funds be nonrecurring.

(3) The North Carolina Partnership for Children, Inc., shall receive the sum of nine hundred sixty-four thousand three hundred fifty-one dollars ($964,351) in the 2000-2001 fiscal year for State-level administration of the Program.

The General Assembly requests that the Governor fully fund the Program in the continuation budget for the 2001-2003 fiscal biennium at the level recommended by the Governor in the 1999-2001 fiscal biennium."

Section 11.28.(i) Subsection (n) of Section 11.48 of S.L. 1999-237 reads as rewritten:

"Section 11.48.(n) Of the funds appropriated to the Department of Health and Human Services for the Program for the 1999-2001 biennium, the Frank Porter Graham Child Development Center shall receive the sum of one million fifteen thousand dollars ($1,015,000) in the 1999-2000 fiscal year and the sum of one million ~~fifteen thousand dollars ($1,015,000)~~ sixty-five thousand seven hundred fifty dollars ($1,065,750) in the 2000-2001 fiscal year."

SUBPART 7. DEAF AND HARD OF HEARING SERVICES

Requested by: Representatives Earle, Nye, Easterling, Redwine, Alexander, Senators Martin of Guilford, Plyler, Perdue, Odom

FAMILY SUPPORT/DIVISION OF SERVICES FOR THE DEAF AND THE HARD OF HEARING SERVICES CONTRACT

Section 11.29. Section 11.50 of S.L. 1999-237 reads as rewritten:

"Section 11.50. Of the funds appropriated in this act to the Division of Services for the Deaf and the Hard of Hearing, Department of Health and Human Services, for family support services, the sum of five hundred three thousand two hundred thirty-eight dollars ($503,238) for the 1999-2000 fiscal year and the sum of ~~five hundred three~~ seven hundred twenty-three thousand two hundred thirty-eight dollars ~~($503,238)~~ ($723,238) for the 2000-2001 fiscal year shall be used to contract with a private, nonprofit corporation licensed to do business in North Carolina to perform those services, including family support and advocacy services as well as technical assistance to professionals who work with families of hearing-impaired children aged birth to 21 years."

SUBPART 8. PUBLIC HEALTH

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

MAINTAIN FUNDING FOR DEVELOPMENTAL EVALUATION CENTERS

Section 11.30. The Department of Health and Human Services shall replace any reductions in appropriations for the Developmental Evaluation Centers with Medicaid receipts. The total amount of the Developmental Evaluation Centers program budget shall not be reduced below the amount certified in the 1999-2000 fiscal year program budget.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

USE OF NEWBORN SCREENING FEES

Section 11.31.(a) G.S. 130A-125 reads as rewritten:

"*§ 130A-125. Screening of newborns for metabolic and other hereditary and congenital disorders.*

(a) The Department shall establish and administer a Newborn Screening Program. The program shall include, but shall not be limited to:

(1) Development and distribution of educational materials regarding the availability and benefits of newborn screening.

(2) Provision of laboratory testing.

(3) Development of follow-up protocols to assure early treatment for identified children, and the provision of genetic counseling and support services for the families of identified children.

(4) Provision of necessary dietary treatment products or medications for identified children as medically indicated and when not otherwise available.

(5) For each newborn, provision of physiological screening in each ear for the presence of permanent hearing loss.

(b) The Commission shall adopt rules necessary to implement the Newborn Screening Program. The rules shall include, but shall not be limited to, the conditions for which screening shall be required, provided that screening shall not be required when the parents or the guardian of the infant object to such screening. If the parents or guardian object to the screening, the objection shall be presented in writing to the physician or other person responsible for administering the test, who shall place the written objection in the infant's medical record.

(b1) The Commission for Health Services shall adopt temporary and permanent rules to include newborn hearing screening in the Newborn Screening Program established under this section.

(c) The Department may impose a fee for a laboratory test performed pursuant to this section by the State Public Health Laboratory. A fee for a test must be based on the actual cost of performing the test. Fees collected shall remain in the Department to be used to offset the cost of the Newborn Screening Program. ~~The fees for laboratory tests shall be used to supplement and not supplant funds appropriated for the Newborn Screening Program.~~

~~The Newborn Screening Fee Account is established as a nonreverting account within the Department. Fees collected pursuant to this section shall be credited to this Account and shall be applied to the Newborn Screening Program.~~"

Section 11.31.(b) Not later than March 1, 2001, the Department of Health and Human Services shall submit a progress report on the implementation of the newborn hearing screening program to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources, and to the Fiscal Research Division. The report shall include findings and recommendations relating to:

(1) Availability and adequacy of screening and diagnostic equipment;
(2) Staff training;
(3) Data on the number of infants screened, the number who failed the hearing screening, and the number fitted for amplification;
(4) The follow-up process for audiological management;
(5) Referral procedures for child service coordination and other early intervention services; and
(6) Outreach efforts to increase public awareness.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Warren, Plyler, Perdue, Odom

HEART DISEASE AND STROKE PREVENTION TASK FORCE REPORT

Section 11.32. Subsection (l) of Section 26.9 of Chapter 507 of the 1995 Session Laws, as amended by Section 15.25 of S.L. 1997-443, and as further amended by Section 11.57 of S.L. 1999-237, reads as rewritten:

"(l) The Task Force shall submit to the Governor and to the General Assembly a preliminary report by January 1, 1996; an interim report within the first week of the convening of the 1997 General Assembly; a second interim report within the first week of the convening of the 1997 General Assembly, Regular Session 1998; a third interim report within the first week of the convening of the 1999 General Assembly, a fourth interim report within the first week of the convening of the 2000 General Assembly; a fifth interim report within the first week of the convening of the 2001 General Assembly, and a final report by June 30, 2001. The reports shall address the Plan, actions and resources needed to fully implement the Plan, and progress in achieving implementation of the Plan to reduce the occurrence of and burden from heart disease and stroke in North Carolina. The reports shall include an accounting of funds expended and anticipated funding needs for full implementation of recommended plans and programs. Not later than October 1, 2000, the Task Force shall submit an additional report on its actual budget and activities for the 1999-2000 fiscal year. The report shall also describe the impact and effectiveness of Task Force activities in the State. The report shall

be submitted to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division."

Requested by: Representatives Earle, Nye, Easterling, Redwine, Boyd-McIntyre, Senators Martin of Guilford, Plyler, Perdue, Odom

EXTEND OSTEOPOROSIS TASK FORCE

Section 11.33.(a) Subsection (b) of Section 11.58 of S.L. 1999-237 reads as rewritten:

"Section 11.58.(b) The Task Force shall submit a progress report to members of the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources, the Governor, and the Fiscal Research Division not later than April 1, 2000. The progress report shall address:

(1) Progress being made in fulfilling the duties of the Task Force and in developing the Osteoporosis Prevention Plan,
(2) The anticipated time frame for completion of the Prevention Plan, and
(3) Recommended strategies or actions to reduce the occurrence of and burdens suffered from osteoporosis by citizens of this State.

The Task Force shall submit its final report to the ~~1999~~ 2001 General Assembly, the Governor, and the Fiscal Research Division not later than October 1, ~~2000.~~ 2001."

Section 11.33.(b) Subsection (m) of Section 1532 of S.L. 1997-443, as amended by subsection (c) of Section 11.58 of S.L. 1999-237, reads as rewritten:

"(m) Upon submission of its final report to the Governor and the ~~1999~~ 2001 General Assembly, ~~Regular Session 2000,~~ the Task Force shall expire."

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

LIMITATIONS ON EXPANSION OF INTENSIVE HOME VISITATION PROGRAM

Section 11.34.(a) The Department of Health and Human Services shall not amend the State Medicaid Plan to provide Medicaid reimbursement for intensive home visiting services.

Section 11.34.(b) The Department of Health and Human Services shall arrange for an independent evaluation of Intensive Home Visitation Program first-year pilot programs that began operation in February, 1998. The evaluation shall review outcomes of the three models that were used in the pilot programs, compare the outcome for Intensive Home Visitation projects operating in North Carolina to those that have been the subject of national research, and identify elements that contribute to successful projects.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Wright, Senators Martin of Guilford, Plyler, Perdue, Odom

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

Section 11.35.(a) Subsections (d) and (e) of Section 11.55 of S.L. 1999-237 read as rewritten:

"Section 11.55.(d) The Department shall also develop a comprehensive information management system on AIDS/HIV clients receiving services from the State. The Department may use up to fifty thousand dollars ($50,000) of the funds appropriated under this act to implement this information management system. This information management system shall be patterned after the information management system used by the Elderly Drug Assistance Program, shall provide instantaneous internal access to information, and ~~This system~~ shall include information on the following:

(1) ~~program~~ Program usage patterns of ADAP participants, including, but not limited to, frequency of prescription purchases, ~~and~~ types of medications ~~prescribed.~~ prescribed, and the cost of prescribed medications on a monthly basis.

(2) Demographics of participants in the program, including the age, gender, race, ethnicity, and county of residence of participants.

The Department shall also develop a plan for promoting patient adherence to physician treatment recommendations. In developing the plan, the Department shall identify ways of obtaining information without interfering with physician-patient confidentiality. The Department shall report on this plan to the members of the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division not later than May 15, 2000.

Section 11.55.(e) For the 1999-2000 fiscal ~~year,~~ year and for the 2000-2001 fiscal year, HIV-positive individuals with incomes at or below one hundred twenty-five percent (125%) of the federal poverty level are eligible for participation in ADAP. Notwithstanding any other provision of law, eligibility for participation in ADAP during the 1999-2000 fiscal year shall not be extended to individuals with incomes above one hundred twenty-five percent (125%) of the federal poverty level. Eligibility for participation in ADAP during the 2000-2001 fiscal year may be extended to individuals with incomes up to one hundred fifty percent (150%) of the federal poverty level only after the Office of State Budget and Management certifies in writing that the Department has developed an information management system pursuant to subsection (d) of this section. Until the Office of State Budget and Management makes this certification, eligibility for participation in ADAP during the 2000-2001 fiscal year shall not be extended to individuals with incomes above one hundred twenty-five percent (125%) of the federal poverty level. All individuals who are eligible for participation in ADAP shall be served by the Department of Health and Human Services. If sufficient funds are not available from funds allocated to ADAP, the Department of Health and Human

Services shall transfer available funds from other programs within the Department to meet the funding needs of ADAP."

Section 11.35.(b) The Department of Health and Human Services shall make an interim report by October 1, 2000, and a final report by April 1, 2001, to the Senate Appropriations Committee on Human Resources, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on ADAP. The reports shall include the following:

(1) Monthly data on total cumulative AIDS/HIV cases reported in North Carolina.
(2) Monthly data on the estimated number of individuals eligible to participate in ADAP and the actual number of participants in ADAP.
(3) Monthly data on the number of individuals who have applied to participate in ADAP that have been determined to be ineligible.
(4) Monthly data on the income level of participants in ADAP and of individuals who have applied to participate in ADAP that have been determined to be ineligible.
(5) Monthly data on fiscal-year-to-date expenditures of ADAP. The interim report shall contain monthly data on the calendar-year-to-date expenditures of ADAP.
(6) Monthly data on the actual line-item budget of ADAP.
(7) Monthly data on funding sources of ADAP expenditures.
(8) Monthly data on ADAP funds that are applied to a Medicaid spend-down.
(9) An update on the status of the information management system.
(10) Monthly data on ADAP usage patterns and demographics of participants in ADAP.
(11) Estimated participation rates and costs if eligibility for participation in ADAP were raised to one hundred seventy-five percent (175%) of the federal poverty level or to two hundred percent (200%) of the federal poverty level.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

COMMUNICABLE DISEASE CONTROL AID TO COUNTIES/REPORT

Section 11.36. Not later than October 1, 2000, the Department of Health and Human Services shall report the impact of combining and allocating funds appropriated for the 1999-2000 fiscal year for Aid to Counties in the Acute Communicable Disease Control Fund, the Tuberculosis Control Fund, and the Sexually Transmitted Disease Control Fund into one Acute Communicable Disease Control Aid to Counties Grant. The report shall include the impact of expenditures by county on the individual communicable disease groups. The Department shall submit the report to the House of Representatives Appropriations Subcommittee on Health and Human

Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division of the Legislative Services Office.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

PUBLIC HEALTH PREVENTION ACTIVITIES REPORT

Section 11.37.(a) By October 1, 2000, and more frequently as requested, the Department of Health and Human Services, Division of Public Health, shall report on the activities of each of the following:

(1) Kenneth C. Royall, Jr. Children's Vision Screening Improvement Program;
(2) North Carolina Healthy Start Foundation; and
(3) Adolescent Pregnancy Prevention Coalition of North Carolina.

Section 11.37.(b) The report shall include the following for the 1999-2000 fiscal year:

a. A description of all program activities of the organization;
b. Provide a list of activities that were funded by contracts through the State and the amounts, including a program narrative, for fiscal year 1999-2000;
c. Output data demonstrating the effects of the organization's activities; and
d. Planned budget, objectives, and activities for the 2000-2001 fiscal year.

The Department shall submit the report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division of the Legislative Services Office.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

PREVENTIVE HEALTH PROGRAM PLAN

Section 11.38. The Department of Health and Human Services shall work with the Fiscal Research Division of the Legislative Services Office to do the following:

(1) Conduct a full inventory on all prevention activities including task forces and committees that receive administrative funding;
(2) Identify linkages among program activities, such as activities involving education and awareness, and those involving services;
(3) Identify all administrative costs and funding sources and number of positions associated with various prevention activities;
(4) Develop an alternative organizational structure that could more effectively and efficiently administer preventive health activities.

Not later than February 1, 2001, the Department shall submit the report required under this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Purcell, Plyler, Perdue, Odom

PRESCRIPTION DRUG ASSISTANCE PROGRAM

Section 11.39. Section 11.1.(a) of S.L. 1999-237 reads as rewritten:

"Section 11.1.(a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of five hundred thousand dollars ($500,000) for the 1999-2000 fiscal year and the sum of ~~five hundred thousand~~ one million dollars ~~($500,000)~~ ($1,000,000) for the 2000-2001 fiscal year shall be used to pay the cost of outpatient prescription drugs for persons:

(1) Over the age of 65 years and not eligible for full Medicaid benefits;

(2) Whose income is not more than one hundred fifty percent (150%) of the federal poverty level; and

(3) Who have been diagnosed with cardiovascular disease or diabetes.

These funds shall be used to pay the cost of outpatient prescription drugs for the treatment of cardiovascular disease or diabetes. Payment shall be not more than the Medicaid cost including rebates. The Department shall develop criteria to maximize the efficient and effective distribution of these drugs."

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

ADOLESCENT PREGNANCY PREVENTION PROGRAM CHANGES

Section 11.40. G.S. 130A-131.15 reads as rewritten:

"§ *130A-131.15. Department to establish program.*

(a) The Department shall establish and administer a program to distribute funds appropriated for adolescent pregnancy prevention projects.

~~(b) The Commission shall adopt rules necessary to implement the program.~~

~~(c) The Department shall evaluate all of the adolescent pregnancy prevention projects funded as a result of this program at least yearly and shall report its findings to the Commission for Health Services, the Joint Legislative Commission on Governmental Operations, and the Chairmen of the House Appropriations Subcommittee on Health and Human Services, and the Senate Appropriations Committee on Health and Human Services by April 1 of each year. The evaluation shall be conducted by a firm or individual external to the Department. Any evaluation of these projects shall include a study of the~~

~~effectiveness of the project in reducing the pregnancy rate within the target population.~~

~~(d) The Commission shall be responsible for monitoring the Department's administration of the Adolescent Pregnancy Prevention Program. The Department shall manage and fund the Adolescent Pregnancy Prevention Program projects as follows:~~

~~(1) Applications. Any local agency or organization or combination of agencies and organizations may apply to the Department for an allocation of money to operate a project aimed at preventing adolescent pregnancy. The application shall contain an analysis of the adolescent pregnancy and related problems in the locality the project would serve, and a description of how the project would attempt, over a period of at least five years, to prevent the problems. The application shall state how much money is needed to operate the project and how the money shall be spent. The Department shall conduct annually a proposal-writing session that shall be attended by a representative of any project that wishes to apply for funding; that session shall define the criteria for accountability and evaluation that the Department requires of projects. That session shall also provide information about additional funding sources to which projects might turn to satisfy the matching requirements of subdivision (5) of this subsection.~~

~~(2) Proposal Requirements. The Department shall apply the following minimum standards to projects applying for first-year funding:~~

~~a. Each project shall have a plan of action that extends for at least five years for prevention of adolescent pregnancy.~~

~~b. Each project shall have realistic, specific, and measurable goals and objectives for the prevention of adolescent pregnancy.~~

~~c. Each project, before submitting its proposal, shall send a representative to the proposal-writing session held by the Department.~~

~~(3) Operating Standards. The Department shall apply the following minimum operating standards:~~

~~a. Each project shall have a Board of Advisors composed of members from outside the sponsoring agency of the project. The Board of Advisors shall include representatives from at least four of the following: media, government, charitable organizations, private business, and medical institutions. The Boards of Advisors shall meet at least quarterly and advise project staff on project policies and operations.~~

~~b. Each project shall comply with reporting, contracting, and evaluation requirements of the Department.~~

~~c. Each project shall define and maintain cooperative ties with other community institutions.~~

d. Each project shall demonstrate its ability to attract financial support from sources other than the State, including sources in the local community.

(4) Criteria for Project Selection. For first-year funding, the Department shall choose from among the applicants that meet the minimum standards in subdivision (2) of this subsection the best selection of projects according to the following criteria:

a. Adequacy of proposed staff to meet project objectives;

b. Appropriateness of project strategies to reduce adolescent pregnancy;

c. Level of community support, including endorsement from the appropriate local government entity and documentation from the appropriate local government entity and from community organizations that opportunity has been given for citizen input into the proposed program, and that there is community support for the proposal. Documentation may include letters or statements of support from citizens or community organizations, or statements that community support was expressed at public hearings. A public hearing is not required by this paragraph;

d. Degree of need of the locality, including that the county has a significant adolescent pregnancy problem as evidenced by its attributable risk score developed by the State Center for Health and Environmental Statistics; and

e. Other appropriate criteria.

The Department shall make its recommendations for funding to the Commission. The Commission shall make the final determination of which projects are to be funded. The Commission shall consider the recommendations of the Department but shall not be bound by them. The Commission shall notify the projects that are to be funded by June 1 of each year.

(5) Schedule of Funding. If the Commission, upon consultation with the Department, finds that a project it has chosen for first-year funding continues to meet the operating standards of subdivisions (2) and (3) of this subsection, funding for that project shall continue, to the extent of available money, for an additional four years. The level of funding provided by the Department to approved projects shall be set according to the following schedule:

a. First year, eighty percent (80%) of the project's annual budget not to exceed the maximum award established by the Commission for Health Services;

b. Second year, ninety percent (90%) of the State appropriations or federal block grant funds awarded in the first year;

~~c. Third year, seventy-five percent (75%) of the State appropriations or federal block grant funds awarded in the first year;~~

~~d. Fourth year, sixty-five percent (65%) of the State appropriations or federal block grant funds awarded in the first year; and~~

~~e. Fifth year, fifty percent (50%) of the State appropriations or federal block grant funds awarded in the first year.~~

~~The portion of a project's budget that must come from sources other than State or federal block grant funds may be provided as in-kind contributions as well as cash.~~

~~(6) Five-Year Limit on Funding. No project shall receive State funding if it has previously received State funding for five full years. Any project that has received State funding before July 1, 1990, will be eligible for consideration for an additional five years' State support, according to the schedule. The Commission may fund any such project that meets the minimum standards if it determines, after considering the experience and impact of the project and measuring its application against those of other applicants, that it should be funded.~~

~~(7) Maximum Level of Funding. The Commission for Health Services shall by rule determine the maximum annual amount that may be made to any one project.~~

~~(8) As adolescent pregnancy prevention project grant funds decrease, a project shall maintain its original budget level, less the amount expended for start-up costs. The Department shall develop guidelines for determining start-up costs, which guidelines shall be uniform for all projects. Local match percentage may come from any in-kind source or newly generated funds, public or private, available to the project."~~

(b) The Department of Health and Human Services, Division of Public Health, in collaboration with local program administrators, the Adolescent Pregnancy Prevention Coalition of North Carolina, and other organizations, shall adopt guidelines for the administration of funds for teen pregnancy prevention and for parenting programs. The guidelines shall include the following programmatic requirements:

(1) Council development at the local level is encouraged but not required for program funding. Councils that received first-year funding for the 1999-2000 fiscal year for administrative expenses for coalition building and partnership development shall receive funds committed for the second year of organizational development. The Division shall encourage programs that receive funding under this section to involve other health service organizations, nonprofit organizations, and task forces in program efforts.

(2) In awarding grants, the Department shall target counties with the highest teen pregnancy rates, increasingly higher

teen pregnancy rates, high rates within demographic subgroups, or greatest need for parenting programs. Grants may be renewed annually based on program efficiency and effectiveness, teen pregnancy rates, and the level of need for parenting programs. Grants shall be funded at a particular level and may be funded on a multiyear cycle. All organizations receiving funding prior to June 30, 2000, shall continue to receive their five-year commitment of funding as contracted with the Department.

(3) The Division shall encourage all programs to implement best practice models. While best practice models are encouraged, the Department may fund innovative and promising projects that have not yet been recognized as best practice. All existing programs not using best practice models shall be encouraged to transition to the use of best practice models.

(4) Programs are not required to provide a cash match for these funds, however, the Department may require an in-kind match.

Funds for State-level administrative expenses of the Program shall not exceed ten percent (10%) of the total budget for teen pregnancy prevention and parenting programs. Administrative expenses include staffing and contracted services for evaluation and coalition-building activities.

(c) The Department shall contract with an independent private consulting firm to evaluate the programs. The evaluation shall include standard data collection utilizing the mechanism that has been developed by the University of North Carolina at Chapel Hill, School of Social Work, and shall be conducted in a manner that objectively measures the effectiveness of each program evaluated.

(d) The Department shall report annually on March 1, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division. The report shall include information on all of the following for each teen pregnancy prevention and parenting program:

(1) The program budget delineating all administrative expenses, contracts for services, and technical assistance.

(2) A narrative describing each project funded and the amount of funds received by the project.

(3) Effectiveness of the program in reducing teen pregnancy or developing responsible parenting skills in young adults, as applicable.

(4) Status of the evaluation."

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Purcell, Plyler, Perdue, Odom

FUNDS FOR PREVENTION OF BIRTH DEFECTS AND REDUCTION IN INFANT MORTALITY

Section 11.42. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, the sum of one hundred fifty thousand dollars ($150,000) for the 2000-2001 fiscal year shall be used for public awareness activities on the prevention of birth defects and infant mortality reduction. This initiative will include informing women about the importance of folate consumption as an effective means of preventing neural tube birth defects. The campaign shall be targeted at women of child-bearing age and may include a media campaign, creation of literature for dissemination at public health departments and physicians' offices, and workshops.

Requested by: Representatives Earle, Nye, Easterling, Redwine, Senators Martin of Guilford, Plyler, Perdue, Odom

FUNDS FOR MEDICAID COVERAGE OF FAMILY PLANNING SERVICES

Section 11.42A. Of the funds appropriated in this act to the Department of Health and Human Services, the sum of four hundred sixty-nine thousand dollars ($469,000) for the 2000-2001 fiscal year shall be used to provide the State match for a Medicaid waiver to provide Medicaid coverage for family planning services to men and women of child-bearing age whose family income is equal to or less than one hundred eighty-five percent (185%) of the federal poverty level. Funding may include funding for two staff positions and their related support. The expenditure of funds under this section is contingent upon approval of the waiver by the Health Care Financing Administration. Funds shall not be expended earlier than January 1, 2001.

PART XII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Hill, Wright, McComas, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom, Jordan

EXPAND THE PERMISSIBLE USES OF A GRANT RECEIVED FOR THE 1999-2000 FISCAL YEAR FOR THE DEVELOPMENT OF A LOCAL FARMERS' MARKET IN NEW HANOVER COUNTY

Section 12.(a) The sum of one hundred thousand dollars ($100,000) was appropriated to the Department of Agriculture and Consumer Services for the 1999-2000 fiscal year to provide grants for local farmers' markets. The sum of forty thousand dollars ($40,000) that the Department allocated as a grant for the 1999-2000 fiscal year for the development of a farmers' market in New Hanover County shall not revert and may be used to produce written materials to educate the public and promote the development of a local farmers' market in New Hanover County or to solicit donations for the purchase of property or facilities for a local farmers' market in New Hanover County.

Section 12.(b) The uses of funds authorized by this section are in addition to other permissible uses of these funds under the guidelines adopted under Section 13.7 of S.L. 1998-212 and any other applicable rule or law.

Section 12.(c) This section becomes effective June 30, 2000.

Requested by: Representatives Fox, Owens, Warner, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom, Phillips

FARMLAND PRESERVATION

Section 12.1. Notwithstanding the provisions of G.S. 106-744(b), funds appropriated in this act to the Department of Agriculture and Consumer Services for the Farmland Preservation Trust Fund for the 2000-2001 fiscal year shall be used for the purchase of agricultural conservation easements that are perpetual in duration and which shall not be reconveyed under any circumstances.

PART XIII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

GRASSROOTS SCIENCE PROGRAM FUNDS

Section 13. The schedule of allocations of appropriations to the Department of Environment and Natural Resources for the Grassroots Science Program under Section 15.2 of S.L. 1999-237 shall be the same in the 2000-2001 fiscal year as it was for the 1999-2000 fiscal year.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

ENVIRONMENTAL EDUCATION GRANTS

Section 13.1.(a) Of the two hundred thousand dollars ($200,000) appropriated in this act to the Department of Environment and Natural Resources for the 2000-2001 fiscal year for environmental education grants, up to fifteen percent (15%) may be used by the Department for the 2000-2001 fiscal year for the costs of administering the environmental education grants. The remainder of these funds shall be used to provide grants to promote environmental education throughout the State. Grants under this section may be awarded to:

(1) Schools, community organizations, and environmental education centers for the development of environmental education library collections; or

(2) School groups for field trips to environmental education centers across the State, provided the activities of the field trips are correlated with the Department of Public Instruction's curriculum objectives.

Section 13.1.(b) The Department of Environment and Natural Resources shall report to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the Fiscal Research Division by January 1, 2001, and again by July 1, 2001, on the grant program under this section. The report shall include a list of amounts awarded and project descriptions for each grant recipient.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

DENR STUDY OF DENR

Section 13.2. The Department of Environment and Natural Resources shall continue to evaluate its organization to identify ways to increase efficiency and to retain staff and to identify ways to better serve the public through permit reform and organizational excellence. The Department shall report any recommendations to the Appropriations Subcommittees on Natural and Economic Resources in both the House of Representatives and the Senate and to the Environmental Review Commission no later than January 15, 2001.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

DENR STUDY/RELOCATE DIVISION OF COASTAL MANAGEMENT OFFICE

Section 13.3. The Department of Environment and Natural Resources shall study the feasibility of relocating the main office of the Division of Coastal Management to one or more of the 20 coastal counties within the jurisdiction of the Coastal Area Management Act. In its study, the Department shall consider the cost of relocation, the impact on program efficiency, the availability of office space, and other factors affecting program functions. If the Department determines that relocation of the main office is feasible, then the Department shall include in its report a draft plan for the relocation.

The Department shall report its findings and recommendations to both the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources and to the Fiscal Research Division no later than January 15, 2001.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

ERC STUDY RECODIFICATION OF ENVIRONMENTAL STATUTES

Section 13.4. The Environmental Review Commission shall study the recodification of the General Statutes relating to the environment and environmental agencies. This recodification shall make no substantive changes to the current statutes relating to the environment and environmental agencies.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Baker, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

REALLOCATE TOWN FORK CREEK FUNDS

Section 13.5. Section 15.11(a) of S.L. 1997-443, as amended by Section 15.3 of S.L. 1999-237, reads as rewritten:

"(a) The funds placed in a reserve account in the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services pursuant to Section 26.3(c) of Chapter 507 of the 1995 Session Laws shall not revert until June 30, 2001. Those funds are reallocated as follows:

(1) Five hundred four thousand five hundred sixty dollars ($504,560) to the Stokes County Water and Sewer Authority, Inc., for the Germanton Water Project.

(2) Nine hundred thirty thousand six hundred eighty dollars ($930,680) to the Stokes County Water and Sewer Authority, Inc., for the ~~Madison Connection Project.~~ Walnut Cove/Industrial Site Connection Project.

(3) Eighty thousand dollars ($80,000) to the Stokes County Water and Sewer Authority, Inc., for the Dan River Project.

(4) Thirty thousand dollars ($30,000) to the Department of Environment, Health, and Natural Resources for the Limestone Creek small watershed project in Duplin County.

(5) Three hundred forty thousand six hundred forty dollars ($340,640) to the Department of Environment, Health, and Natural Resources for the Deep Creek small watershed project in Yadkin County."

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom, Albertson

AGRICULTURE COST SHARE/TECHNICAL ASSISTANCE FUNDS

Section 13.6. Of the funds appropriated to the Department of Environment and Natural Resources for the Agriculture Cost Share Program for Nonpoint Source Pollution Control for financial assistance funding, the sum of two hundred forty thousand dollars ($240,000) for the 2000-2001 fiscal year shall be used to support cost-share technical assistance in soil and water conservation districts participating in the Agriculture Cost Share Program for Nonpoint Source Pollution Control.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

ONE STOP PERMIT ASSISTANCE PILOT PROJECTS

Section 13.7.(a) The Department of Environment and Natural Resources shall establish a one-stop environmental permit application assistance and tracking system pilot project for one year in at least two regional offices. It is the intent of the General Assembly that the

Department expand this pilot program to more than two regional offices during the 2000-2001 fiscal year if the resources are available to do so and to expand it to a statewide program as soon as possible after the 2000-2001 fiscal year. As part of the pilot project, the Department shall provide to each person who submits an application for an environmental permit to one of the regional offices participating in the pilot project, a time frame within which that applicant may expect a final decision regarding the issuance or denial of the permit. The procedure regulating the time frame estimates and sanction for failing to honor the time frame shall be as set out in subsections (b) and (c) of this section.

Section 13.7.(b) Upon receipt of a complete application for an environmental permit, the Department of Environment and Natural Resources shall provide to the applicant a good faith estimate of the date by which the Department expects to make the final decision of whether to issue or deny the permit.

Section 13.7.(c) Unless otherwise provided by law, when an applicant has provided to the Department of Environment and Natural Resources the information and documentation required and requested by the Department and the Department fails to issue or deny the permit within 60 days of the date projected by the Department for the final decision of whether to issue or deny the permit, the permit shall be automatically granted to the applicant. This subsection does not apply when an applicant submits a substantial amendment to its application after the Department has provided the applicant the projected time frame as required by this section. This subsection does not apply when an applicant agrees to receive a final decision from the Department more than 60 days from the date projected by the Department under subsection (b) of this section.

Section 13.7.(d) The Department of Environment and Natural Resources shall track the time required to process each complete environmental permit application received on or after July 1, 2000, as part of the pilot project under this section. The Department shall compare the time in which the permit was issued or denied with the projected time frame provided to the applicant by the Department as required by this section. The Department shall identify each permit that was issued or denied more than 90 days after receipt of a complete application by the Department and shall document the reasons for the delayed action.

Section 13.7.(e) The Department of Environment and Natural Resources shall report to the Cochairs of both the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission the number of environmental permits in the pilot project that took more than 90 days to issue or deny, the types of permits those were, the reasons for the extended processing time of those permits, and how the time within which the permit was actually issued or denied compared with the projected time frame provided to the applicant by the Department as required by this

section. Based on the data gathered in the pilot project, the Department shall include in its report recommendations regarding permit time frames for all major permits issued by the Department. The Department shall report to both the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission regarding the results of the pilot project by April 1, 2001.

Section 13.7.(f) The Department may adopt temporary rules to implement this section.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Smith, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

BEACH MANAGEMENT PLAN/FEDERAL FUNDS

Section 13.9.(a) The General Assembly makes the following findings:

(1) North Carolina has 320 miles of ocean beach, including some of the most pristine and attractive beaches in the country.

(2) The balance between economic development and quality of life in North Carolina has made our coast one of the most desirable along the Atlantic Seaboard.

(3) North Carolina's beaches are vital to the State's tourism industry.

(4) North Carolina's beaches belong to all the State's citizens and provide recreational and economic benefits to our residents statewide.

(5) Beach erosion can threaten the economic viability of coastal communities and can significantly affect State tax revenues.

(6) The Atlantic Seaboard is vulnerable to hurricanes and other storms, and it is prudent to take precautions such as beach nourishment that protect and conserve the State's beaches and reduce property damage and flooding.

(7) Beach renourishment as an erosion control method provides hurricane flood protection, enhances the attractiveness of beaches to tourists, restores habitat for turtles, shorebirds, and plants, and provides additional public access to beaches.

(8) Federal policy previously favored and assisted voluntary movement of structures threatened by erosion, but this assistance is no longer available.

(9) Relocation of structures threatened by erosion is sometimes the best available remedy for the property owner and is in the public interest.

(10) Public parking and public access areas are needed for use by the general public to enable their enjoyment of North Carolina's beaches.

(11) Acquisition of high erosion hazard property by local or State agencies can reduce risk to citizens and property, reduce costs to insurance policyholders, improve public access to beaches and waterways, and protect the environment.

(12) Beach nourishment projects such as those at Wrightsville Beach and Carolina Beach have been very successful and greatly reduced property damage during Hurricane Fran.

(13) Because local beach communities derive the primary benefits from the presence of adequate beaches, a program of beach management and restoration should not be accomplished without a commitment of local funds to combat the problem of beach erosion.

(14) The State of North Carolina prohibits seawalls and hardening the shoreline to prevent destroying the public's beaches.

(15) Beach nourishment is encouraged by both the Coastal Resources Commission and the U.S. Army Corps of Engineers as a method to control beach erosion.

(16) The Department of Environment and Natural Resources has statutory authority to assist local governments in financing beach nourishment projects and is the sponsor of several federal navigation projects that result in dredging beach-quality sand.

(17) It is declared to be a necessary governmental responsibility to properly manage and protect North Carolina's beaches from erosion and that good planning is needed to assure a cost-effective and equitable approach to beach management and restoration, and that as part of a comprehensive response to beach erosion, sound policies are needed to facilitate the ability of landowners to move threatened structures and to allow public acquisition of appropriate parcels of land for public beach access.

Section 13.9.(b) The Department of Environment and Natural Resources shall compile and evaluate information on the current conditions and erosion rates of beaches, on coastal geology, and on storm and erosion hazards for use in developing a State plan and strategy for beach management and restoration. The Department of Environment and Natural Resources shall make this information available to local governments for use in land-use planning.

Section 13.9.(c) The Department of Environment and Natural Resources shall develop a multiyear beach management and restoration strategy and plan that does all of the following:

(1) Utilizes the data and expertise available in the Divisions of Water Resources, Coastal Management, and Land Resources.

(2) Identifies the erosion rate at each beach community and estimates the degree of vulnerability to storm and hurricane damage.

(3) Uses the best available geological and geographical information to determine the need for and probable effectiveness of beach nourishment.

(4) Provides for coordination with the U.S. Army Corps of Engineers, the North Carolina Department of Transportation, the North Carolina Division of Emergency Management, and other State and federal agencies concerned with beach management issues.

(5) Provides a status report on all U.S. Army Corps of Engineers' beach protection projects in the planning, construction, or operational stages.

(6) Makes maximum feasible use of suitable sand dredged from navigation channels for beach nourishment to avoid the loss of this resource and to reduce equipment mobilization costs.

(7) Promotes inlet sand bypassing where needed to replicate the natural flow of sand interrupted by inlets.

(8) Provides for geological and environmental assessments to locate suitable materials for beach nourishment.

(9) Considers the regional context of beach communities to determine the most cost-effective approach to beach nourishment.

(10) Provides for and requires adequate public beach access, including handicapped access.

(11) Recommends priorities for State funding for beach nourishment projects, based on the amount of erosion occurring, the potential damage to property and to the economy, the benefits for recreation and tourism, the adequacy of public access, the availability of local government matching funds, the status of project planning, the adequacy of project engineering, the cost-effectiveness of the project, and the environmental impacts.

(12) Includes recommendations on obtaining the maximum available federal financial assistance for beach nourishment.

(13) Is subject to a public hearing to receive citizen input.

Section 13.9.(d) Each plan shall be as complete as resources and available information allow. The Department of Environment and Natural Resources shall revise the plan every two years and shall submit the revised plan to the General Assembly no later than March 1 of each odd-numbered year. The Department may issue a supplement to the plan in even-numbered years if significant new information becomes available.

Section 13.9.(e) The Department of Environment and Natural Resources shall submit the first plan required by this act, no later than May 1, 2001. With the first plan, the Department shall:

(1) Provide to the General Assembly a report on alternative State and local government sources of funding for beach nourishment.

(2) Review State, federal, and local policies on enabling and assisting property owners to move structures that are threatened by imminent erosion damage and shall recommend policies, legislative changes, and actions to make moving structures more feasible for landowners.

(3) Review existing programs for the acquisition and management of public land for beach access areas and open space, including identifying high-hazard, erosion-prone, or unbuildable parcels of land that may be used for this purpose, and shall recommend any policy and legislative changes needed to improve public beach access. The Department shall recommend priorities for land acquisition for public beach access, open space, and hazard-reduction purposes.

Section 13.9.(f) In the event that federal funds become available for planning and developing shore protection projects, the State shall match those funds in accordance with the funding guidelines set out in G.S. 143-215.71.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

STUDY WATER CAPACITY USE AREA ISSUES

Section 13.10. The Natural and Economic Resources Appropriations Subcommittees in both the House of Representatives and the Senate shall study the proposed rules that provide for the delineation of a water capacity use area encompassed by the following 15 North Carolina counties and adjoining creeks, streams, and rivers: Beaufort, Carteret, Craven, Duplin, Edgecombe, Greene, Jones, Lenoir, Martin, Onslow, Pamlico, Pitt, Washington, Wayne, and Wilson. The Appropriations Subcommittees shall consider the economic impact that the proposed rules would have on the fifteen county area and shall also consider what alternate water sources may be available to the fifteen county area.

The Appropriations Subcommittees on Natural and Economic Resources in both the House of Representatives and the Senate may obtain assistance from any resources outside the General Assembly that the Subcommittees determine are needed to adequately perform their study. The Subcommittees shall report their findings and recommendations, including any legislative proposals, to the 2001 General Assembly.

PART XIV. DEPARTMENT OF COMMERCE

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Hunter, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

AUTHORIZATION TO REALLOCATE PREVIOUSLY APPROPRIATED PETROLEUM OVERCHARGE FUNDS

Section 14. Section 16.9A of S.L. 1999-237 reads as rewritten:

"Section 16.9A. Funds previously appropriated to the Department of Commerce from the case of United States v. Exxon and from the United States Department of Energy's Stripper Well Litigation for projects under the State Energy Conservation Plan, the Energy Extension Service Program, or the Institutional Conservation Program may be reallocated by the Department of Commerce to be used for projects under the State Energy Efficiency ~~Programs.~~ Programs and Residential Energy Conservation Assistance Program (RECAP)."

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

ENERGY CONSERVATION PROJECTS IN STATE-OWNED BUILDINGS

Section 14.1. Of the funds previously appropriated to the Department of Commerce from the case of United States v. Exxon and from the United States Department of Energy's Stripper Well Litigation, the Energy Division shall use up to one million dollars ($1,000,000) to implement energy conservation projects in State-owned buildings. The Division shall identify those buildings whose energy costs per square foot are the highest and shall implement energy conservation projects that substantially reduce energy use and provide an opportunity for savings by reducing energy costs.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Hunter, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

PETROLEUM OVERCHARGE FUNDS ALLOCATION

Section 14.2.(a) There is appropriated from funds and interest thereon received from the United States Department of Energy's Stripper Well Litigation (MDL378) that remain in the Special Reserve for Oil Overcharge Funds to the Department of Commerce the sum of two million six hundred thousand dollars ($2,600,000) for the 2000-2001 fiscal year to be allocated for the Residential Energy Conservation Assistance Program (RECAP).

Section 14.2.(b) There is appropriated from funds and interest thereon received from the United States Department of Energy's Stripper Well Litigation (MDL378) that remain in the Special Reserve for Oil Overcharge Funds to the North Carolina Housing Finance Agency the sum of two million dollars ($2,000,000) for the 2000-2001 fiscal year to be allocated for the Housing Trust Fund. Funds may only be used for residential energy-related uses as permitted under the Stripper Well Litigation.

Section 14.2.(c) There is appropriated from funds and interest thereon received from the United States Department of Energy's Stripper Well Litigation (MDL378) that remain in the Special Reserve for Oil Overcharge Funds to the North Carolina Community Development Initiative, Inc., the sum of one million

dollars ($1,000,000) for the 2000-2001 fiscal year. Funds may only be used for residential energy-related uses as permitted under the Stripper Well Litigation.

Section 14.2.(d) Any funds remaining in the Special Reserve for Oil Overcharge Funds after the allocations made pursuant to subsections (a) through (c) of this section may be expended only as authorized by the General Assembly. All interest or income accruing from all deposits or investments of cash balances shall be credited to the Special Reserve for Oil Overcharge Funds.

Section 14.2.(e) The funds and interest thereon received from the Diamond Shamrock Settlement that remain in a reserve in the Office of State Budget and Management for the Department of Commerce to administer the petroleum overcharge funds pursuant to Section 112 of Chapter 830 of the 1987 Session Laws shall continue to be available to the Department of Commerce on an as-needed basis.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

AUTHORIZATION TO EXPEND REED ACT FUNDS

Section 14.3. Of the funds credited to and held in this State's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to and in accordance with section 903 of the Social Security Act, the Employment Security Commission of North Carolina may expend the sum of two million seventy-eight thousand forty-nine dollars ($2,078,049) for the 2000-2001 fiscal year for automation purposes.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom, Dalton

WORKER TRAINING TRUST FUND APPROPRIATIONS

Section 14.4. Section 16.14 of S.L. 1999-237 reads as rewritten:

"Section 16.14.(a) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of six million two hundred ninety-six thousand seven hundred forty dollars ($6,296,740) for the 1999-2000 fiscal year for the operation of local offices and the sum of six million two hundred ninety-six thousand seven hundred forty dollars ($6,296,740) for the 2000-2001 fiscal year for the operation of local offices.

Section 16.14.(b) Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the following agencies the following sums for the 1999-2000 and the 2000-2001 fiscal years for the following purposes:

(1) $2,400,000 for the 1999-2000 fiscal year and ~~$2,400,000~~ $2,300,000 for the 2000-2001 fiscal year to the Department of Commerce, Division of Employment and Training, for the Employment and Training Grant Program;

(2) $1,000,000 for the 1999-2000 fiscal year and $1,000,000 for the 2000-2001 fiscal year to the Department of Labor for customized training of the unemployed and the working poor for specific jobs needed by employers through the Department's Bureau for Training Initiatives;

(3) $2,046,000 for the 1999-2000 fiscal year and $1,746,000 for the 2000-2001 fiscal year to the ~~Department of Community Colleges~~ Community Colleges System Office to continue the Focused Industrial Training Program;

(4) $225,000 for the 1999-2000 fiscal year and $225,000 for the 2000-2001 fiscal year to the Employment Security Commission for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs;

(5) $400,000 for the 1999-2000 fiscal year and $400,000 for the 2000-2001 fiscal year to the ~~Department of Community Colleges~~ Community Colleges System Office for a training program in entrepreneurial skills to be operated by North Carolina REAL Enterprises;

(6) $60,000 for the 1999-2000 fiscal year and $60,000 for the 2000-2001 fiscal year to the Office of State Budget and Management to maintain compliance with Chapter 96 of the General Statutes, which directs the Office of State Budget and Management to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs; ~~and~~

(7) $1,000,000 for the 1999-2000 fiscal year and $1,000,000 for the 2000-2001 fiscal year to the Department of Labor to expand the Apprenticeship Program. It is intended that the appropriation of funds in this subdivision will result in the Department of Labor serving a benchmark performance level of 10,000 adult and youth apprentices by the year 2000 and maintained or improved ~~thereafter.~~ thereafter;

(8) $100,000 for the 2000-2001 fiscal year to the Community Colleges System Office for the Hosiery Technology Center; and

(9) $100,000 for the 2000-2001 fiscal year to the Community Colleges System Office for the Composites Testing and Training Center.

Section 16.14.(c) The State Treasurer's Office shall deposit the June 2000 interest earnings from the Employment Security Commission Reserve Fund to the Worker Training Trust Fund for the 2000-2001 fiscal year."

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

OREGON INLET FUNDS/NONREVERT

Section 14.5.(a) Funds appropriated to the Department of Commerce for the 1999-2000 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 2000, shall not revert to the General Fund on June 30, 2000, but shall remain available to the Department for legal costs associated with the Project.

Section 14.5.(b) This section becomes effective June 30, 2000.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Odom, Perdue, Cooper

INDUSTRIAL DEVELOPMENT FUNDS

Section 14.6.(a) Funds appropriated to the Department of Commerce in Section 15.1 of S.L. 1998-212 to be used to recruit a large recycling facility, as defined in G.S. 105-129.25, that are unexpended and unencumbered as of June 30, 2000, shall not revert to the General Fund on June 30, 2000, but shall remain available to the Department and shall be used to increase the Industrial Development Fund.

Section 14.6.(b) Funds appropriated to the Department of Commerce in S.L. 1999-237 for the 1999-2000 fiscal year as Job Loss Assistance funds that are unexpended and unencumbered as of June 30, 2000, shall not revert to the General Fund on June 30, 2000, but shall remain available to the Department to be used to increase the Industrial Development Fund.

Section 14.6.(c) This section becomes effective June 30, 2000.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Tolson, Baddour, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

RURAL REDEVELOPMENT AUTHORITY

Section 14.7. Of the funds appropriated in this act to the Department of Commerce for the 2000-2001 fiscal year for the North Carolina Rural Redevelopment Authority, the sum of two hundred fifty thousand dollars ($250,000) shall be placed in a reserve. The funds shall be released if House Bill 1819 or Senate Bill 1516, 1999 General Assembly, or a substantially similar bill creating the North Carolina Rural Redevelopment Authority becomes law.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS

Section 14.8.(a) Section 16.3 of S.L. 1999-237 reads as rewritten:

"Section 16.3.(a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with

subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Commission, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, Global TransPark Development Commission, and Carolinas Partnership, Inc.

Section 16.3.(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

(1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's enterprise factor by the sum of the enterprise factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "enterprise factor" means a county's enterprise factor as calculated under G.S. 105-129.3;

(2) Next, the Department shall subtract from funds allocated to the Global TransPark Development Zone the sum of two hundred forty thousand three hundred fifty dollars ($240,350) in ~~each fiscal year,~~ the 1999-2000 fiscal year and the sum of two hundred six thousand eighty-eight dollars ($206,088) in the 2000-2001 fiscal year, which sum represents the interest earnings in each fiscal year on the estimated balance of seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(3) Next, the Department shall redistribute the sum of two hundred forty thousand three hundred fifty dollars ($240,350) in ~~each~~ the 1999-2000 fiscal year and the sum of two hundred six thousand eighty-eight dollars ($206,088) in the 2000-2001 fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the enterprise factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection."

Section 14.8.(b) Of the funds appropriated in this act to the Department of Commerce for allocation to regional economic development commissions, the sum of three hundred fifty thousand dollars ($350,000) for the 2000-2001 fiscal year shall be allocated in accordance with Section 16.3 of S.L. 1999-237, as amended by this section.

Section 14.8.(c) Of the funds appropriated in this act to the Department of Commerce for allocation to regional economic development commissions, the sum of three hundred fifty thousand

dollars ($350,000) for the 2000-2001 fiscal year shall be allocated equally to the commissions.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

ECONOMIC DEVELOPMENT COMMISSION FUNDS SECURED

Section 14.9. Article 2 of Chapter 158 of the General Statutes is amended by adding a new section to read:

"*§ 158-12.1. Commission funds secured.*

The Western North Carolina Regional Economic Development Commission, Research Triangle Regional Commission, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, Global TransPark Development Commission, and Carolinas Partnership, Inc., may deposit money at interest in any bank, savings and loan association, or trust company in this State in the form of savings accounts, certificates of deposit, or such other forms of time deposits as may be approved for county governments. Investment deposits and money deposited in an official depository or deposited at interest shall be secured in the manner prescribed in G.S. 159-31(b). When deposits are secured in accordance with this section, no public officer or employee may be held liable for any losses sustained by an institution because of the default or insolvency of the depository. This section applies to the regional economic development commissions listed in this section only for as long as the commissions are receiving State funds."

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Smith, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom, Hoyle

EXTEND FUNDING OF THE STUDY COMMISSION ON THE FUTURE OF ELECTRIC SERVICE IN NORTH CAROLINA

Section 14.10. Section 10.1 of S.L. 1997-483, as amended by Section 6.1 of S.L. 1999-395, reads as rewritten:

"Section 10.1. Notwithstanding G.S. 62-302(d), for ~~all expenses during the 1997-98, 1998-99, and 1999-2000 fiscal years of~~ the Study Commission on the Future of Electric Service in North Carolina, established in S.L. 1997-40, as amended by S.L. 1999-122, all expenses incurred through June 30, 2006, shall be reimbursed from funds in the Utilities Commission and Public Staff Fund. There is allocated initially one hundred thousand dollars ($100,000) from the Utilities Commission and Public Staff Fund to the General Assembly for the purpose of enabling the Study Commission on the Future of Electric Service in North Carolina to organize and begin its work. Upon the certification of the need for additional funds by the cochairs of the Study Commission on the Future of Electric Service in North Carolina for the work of the Commission, the Utilities Commission shall transfer the additional funds from the Utilities Commission and Public Staff Fund to the General Assembly for that purpose."

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

NORTH CAROLINA TECHNOLOGICAL DEVELOPMENT AUTHORITY, INC.

Section 14.11. The Technological Development Authority, Inc., shall do the following:

(1) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;
   b. State fiscal year 1999-2000 itemized expenditures and fund sources;
   c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments including actual results through December 31, 2000;
   d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2000; and

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

WORLD TRADE CENTER NORTH CAROLINA REPORT

Section 14.12. World Trade Center North Carolina shall do the following:

(1) By January 15, 2001, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 1999-2000 program activities, objectives, and accomplishments;
   b. State fiscal year 1999-2000 itemized expenditures and fund sources;
   c. State fiscal year 2000-2001 planned activities, objectives, and accomplishments including actual results through December 31, 2000; and
   d. State fiscal year 2000-2001 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2000; and

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom, Albertson

RURAL ECONOMIC DEVELOPMENT CENTER FUNDS

Section 14.13. Section 16.35.(e) of S.L. 1999-237 reads as rewritten:

"Section 16.35.(e) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of five million four hundred thousand dollars ($5,400,000) for the 1999-2000 fiscal year and the sum of ~~two million four hundred thousand dollars ($2,400,000)~~ three million four hundred fifty thousand dollars ($3,450,000) for the 2000-2001 fiscal year shall be allocated as follows:

(1) $1,200,000 in each fiscal year for community development grants to support development projects and activities within the State's minority communities. Any community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria for determining which community development corporation will receive a grant and the grant amount. The Rural Economic Development Center, Inc., shall allocate these funds as follows:

a. $900,000 in each fiscal year for direct grants to the local community development corporations that have previously received State funds for this purpose to support operations and project activities;

b. $250,000 in each fiscal year for direct grants tolocal community development corporations that have not previously received State funds; and

c. $50,000 in each fiscal year to the Rural EconomicDevelopment Center, Inc., to be used to cover expenses in administering this section.

(2) $250,000 in each fiscal year to the Microenterprise Loan Program to support the loan fund and operations of the Program; and

(3) $2,450,000 for the 1999-2000 fiscal year and ~~$950,000~~ $1,350,000 for the 2000-2001 fiscal year shall be used for a program to provide supplemental funding for matching requirements for projects and activities authorized under this subdivision. The Center shall use these funds to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for:

a. Necessary economic development projects and activities in economically distressed areas;

b. Necessary water and sewer projects and activities in economically distressed communities to address health or environmental quality problems except that funds shall

not be expended for the repair or replacement of low pressure pipe wastewater systems. If a grant is awarded under this sub-subdivision, then the grant shall be matched on a dollar- for-dollar basis in the amount of the grant awarded; or

c. Projects that demonstrate alternative water and waste management processes for local governments. Special consideration should be given to cost-effectiveness, efficacy, management efficiency, and the ability of the demonstration project to be replicated.

(4) $1,500,000 for the 1999-2000 fiscal year and $400,000 for the 2000-2001 fiscal year to the Capacity Building Assistance Program. Funds shall be used to pay all or a portion of the costs for providing technical and financial assistance to rural, low-wealth local government units and nonprofit corporations initiating needed water and sewer projects that support the growth and development of rural areas.

(5) $250,000 for the 2000-2001 fiscal year for the Agricultural Advancement Consortium to be placed in a reserve for expenses associated with the Consortium. The Consortium will facilitate discussions among interested parties and develop recommendations to improve the State's economic development through farming and agricultural interests.

The grant recipients in this section shall be selected on the basis of need."

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Kerr, Albertson, Martin of Pitt, Weinstein, Plyler, Perdue, Odom

RURAL ECONOMIC DEVELOPMENT CENTER FUNDS TO RESEARCH AND DEMONSTRATION GRANTS PROGRAM

Section 14.13A. Of the funds appropriated in this act to the Rural Economic Development Center, the sum of three hundred thousand dollars ($300,000) for the 2000-2001 fiscal year shall be allocated to the Research and Demonstration Grants Program to be used for value-added alternative crop research, and the sum of three hundred thousand dollars ($300,000) for the 2000-2001 fiscal year shall be allocated to the Research and Demonstration Grants Program to be used for oyster research.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Mitchell, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

ENERGY DIVISION STUDY OF RESIDENTIAL ENERGY CONSERVATION ASSISTANCE PROGRAM

Section 14.14.(a) The Energy Division of the Department of Commerce shall for the 1998-1999 fiscal year and the 1999-2000 fiscal year determine by county the number of owner-occupied houses that were allocated funds from the Residential Energy Conservation

Assistance Program (RECAP) and the amount of funds that were allocated by county.

Section 14.14.(b) The Energy Division of the Department of Commerce shall for the 1998-1999 fiscal year and the 1999-2000 fiscal year determine by county the number of rental houses that were allocated funds from the Residential Energy Conservation Assistance Program (RECAP) and the amount of funds that were allocated by county.

Section 14.14.(c) The Division shall report its findings to the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division by January 15, 2001.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Mitchell, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom

CAP ON RESIDENTIAL ENERGY CONSERVATION ASSISTANCE PROGRAM SPENDING

Section 14.15. The amount spent by the Energy Division of the Department of Commerce for weatherization activities in the Residential Energy Conservation Assistance Program (RECAP) in the 2000-2001 fiscal year shall not exceed eight million nine hundred seventy-seven thousand sixty-nine dollars ($8,977,069). This amount equals that spent by the Energy Division on RECAP in the 1998-1999 fiscal year.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Perdue, Odom,

RURAL TOURISM DEVELOPMENT FUNDS

Section 14.16. Of the funds appropriated in this act to the Department of Commerce for the 2000-2001 fiscal year, the sum of three hundred thousand dollars ($300,000) shall be used for the Rural Tourism Development Grant Program. The Department shall establish and implement this Program to provide grants to local governments and nonprofit organizations to encourage the development of new tourism projects and activities in rural areas of the State. The Department shall develop procedures for the administration and distribution of funds allocated to the Rural Tourism Development Program under the following guidelines:

(1) Eligible organizations shall make application under procedures established by the Department;
(2) Eligible organizations shall be nonprofit tourism-related organizations located in the State's rural regions;
(3) Priority shall be given to eligible organizations that have significant involvement of travel and tourism-related businesses;
(4) Priority shall be given to eligible organizations serving economically distressed rural counties;

(5) Priority shall be given to eligible organizations that match funds; and
(6) Funds shall not be used for renting or purchasing land or buildings, or for financing debt.

No recipient or new tourism project shall receive a total of more than fifty thousand dollars ($50,000) of these grant funds for the 2000-2001 fiscal year.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Perdue, Martin of Pitt, Plyler, Odom,

EMPLOYMENT SECURITY COMMISSION STUDY OF OLDER AND SECOND CAREER WORKERS

Section 14.17.(a) The Employment Security Commission shall study the ability of older and second career workers to secure employment in North Carolina. The Commission shall: (i) determine what efforts have been made by both public and private agencies to educate employers on the benefits of hiring, retraining, and retaining mature workers; (ii) determine the ways in which technology is being used to enhance the placement of second career workers in the work force; (iii) consider ways to assist older workers in making the transition to second careers; and (iv) consider ways to assist community efforts to recognize, promote, and employ older and second career workers. In conducting the study, the Commission shall consult private, nonprofit organizations that represent older and second career workers, statewide economic development agencies, retired State employee organizations, the community college system, the United States military, the Division of Aging, and local and state Job Service Employer Committees.

Section 14.17.(b) The Employment Security Commission shall report its findings, with recommendations and cost analysis, to the Chairs of the House Economic Growth and Community Development Committee, the Senate Pensions & Retirement and Aging Committee, the Legislative Research Commission on Employment Security, and the Aging Study Commission by April 1, 2001.

Requested by: Representatives Fox, Owens, Warren, Easterling, Redwine, Senators Martin of Pitt, Weinstein, Plyler, Odom, Perdue

TRANSFER ENERGY DIVISION FROM DEPARTMENT OF COMMERCE TO DEPARTMENT OF HEALTH AND HUMAN SERVICES AND DEPARTMENT OF ADMINISTRATION

Section 14.18.(a) The State Energy Conservation Plan is renamed State Energy Efficiency Program.

Section 14.18.(b) The statutory authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, of the Residential Energy Conservation Assistance Program (RECAP) in the Energy Division of the Department of Commerce are transferred from the Department of Commerce to the Department of Health and Human Services.

Section 14.18.(c) The statutory authority, powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, of the Energy Policy Council and State Energy Efficiency Program in the Energy Division of the Department of Commerce are transferred from the Department of Commerce to the Department of Administration.

Section 14.18.(d) The transfers in subsections (b) and (c) of this section shall have all of the elements of a Type I transfer as defined by G.S. 143A-6.

Section 14.18.(e) The transfers described in subsections (b), (c), and (d) of this section shall become effective September 30, 2000. Effective July 1, 2000, all vacant positions in the Energy Division of the Department of Commerce shall be abolished.

PART XV. JUDICIAL DEPARTMENT

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

REPORT ON COMMUNITY MEDIATION CENTERS

Section 15.(a) Section 17.3 of S.L. 1999-237 reads as rewritten:

"Section 17.3.(a) All community mediation centers currently receiving State funds shall report annually to the ~~Judicial Department~~ Mediation Network of North Carolina on the program's funding and activities, including:

(1) Types of dispute settlement services provided;
(2) Clients receiving each type of dispute settlement service;
(3) Number and type of referrals received, cases actually mediated, cases resolved in mediation, and total clients served in the cases mediated;
(4) Total program funding and funding sources;
(5) Itemization of the use of funds, including operating expenses and personnel;
(6) Itemization of the use of State funds appropriated to the center;
(7) Level of volunteer activity; and
(8) Identification of future service demands and budget requirements.

The ~~Judicial Department~~ Mediation Network of North Carolina shall compile and summarize the information provided pursuant to this subsection and shall provide the information to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year.

Section 17.3.(b) A community mediation center requesting State funds for the first time shall provide the General Assembly with the information enumerated in subsection (a) of this section, or

projections where historical data are not available, as well as a detailed statement justifying the need for State funding.

Section 17.3.(c) Each community mediation center receiving State funds for the first time shall document in the information provided pursuant to ~~G.S. 7A-346.1~~ this section that, after the second year of receiving State funds, at least ten percent (10%) of total funding comes from non-State sources.

Section 17.3.(d) Each community mediation center receiving State funds for the third, fourth, or fifth year shall document that at least twenty percent (20%) of total funding comes from non-State sources.

Section 17.3.(e) Each community mediation center receiving State funds for six or more years shall document that at least fifty percent (50%) of total funding comes from non-State sources.

Section 17.3.(f) Each community mediation center currently receiving State funds that has achieved a funding level from non-State sources greater than that provided for that center by subsection (c), (d), or (e) of this section shall make a good faith effort to maintain that level of funding.

Section 17.3.(g) The percentage that State funds comprise of the total funding of each community mediation center shall be determined at the conclusion of each fiscal year with the information provided pursuant to ~~G.S. 7A-346.1~~ this section and is intended as a funding ratio and not a matching funds requirement. Community mediation centers may include the market value of donated office space, utilities, and professional legal and accounting services in determining total funding.

Section 17.3.(h) A community mediation center having difficulty meeting the funding ratio provided for that center by subsection (c), (d), or (e) of this section may request a waiver or special consideration through the ~~Administrative Office of the Courts~~ Mediation Network of North Carolina for consideration by the Senate and House Appropriations Subcommittees on Justice and Public Safety.

Section 17.3.(i) The provisions of G.S. 143-31.4 do not apply to community mediation centers receiving State funds."

Section 15.(b) G.S. 7A-346.1 is repealed.

Section 15.(c) Of the funds appropriated to the Judicial Department for transfer to the community mediation centers for the 2000-2001 fiscal year, funds allocated to the Dispute Settlement Center of Durham County, Inc., and Mediation Services of Wake County, Inc., shall be allocated to Carolina Correctional Services, Inc.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

REPORT ON COURT INFORMATION TECHNOLOGY FUND

Section 15.1. G.S. 7A-343.2 reads as rewritten:

"*§ 7A-343.2. Court Information Technology Fund.*

The Court Information Technology Fund is established within the Judicial Department as a nonreverting, interest-bearing special revenue account. Accordingly, revenue in the Fund at the end of a fiscal year does not revert and interest and other investment income earned by the Fund shall be credited to it. All moneys collected by the Director pursuant to G.S. 7A-109(d) shall be remitted to the State Treasurer and held in this Fund. Moneys in the Fund shall be used to supplement funds otherwise available to the Judicial Department for court information technology and office automation needs. The Director shall report by ~~March 1~~ August 1 and February 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on all moneys collected and deposited in the Fund and on the proposed expenditure of those funds collected during the preceding ~~calendar year.~~ six months."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom, Soles, Lee, Kinnaird, Hagan, Martin of Guilford, Robinson, Reeves, Miller

AUTHORIZE ADDITIONAL MAGISTRATES

Section 15.2. G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min.	Magistrates Max.	Additional Seats of Court
Camden	1	3	
Chowan	2	3	
Currituck	1	4	
Dare	3	8	
Gates	2	3	
Pasquotank	3	5	
Perquimans	2	~~3~~ 4	
Martin	5	8	
Beaufort	4	8	
Tyrrell	1	3	
Hyde	2	4	
Washington	3	4	
Pitt	10	12	Farmville Ayden
Craven	7	10	Havelock
Pamlico	2	4	
Carteret	5	8	
Sampson	6	8	
Duplin	9	11	

Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke Rapids, Scotland Neck
Northampton	5	7	
Bertie	4	6	
Hertford	5	~~6~~ 7	
Nash	7	10	Rocky Mount
Edgecombe	4	7	Rocky Mount
Wilson	4	7	
Wayne	5	12	Mount Olive
Greene	2	4	
Lenoir	4	10	La Grange
Granville	3	7	
Vance	3	6	
Warren	3	~~4~~ 5	
Franklin	3	7	
Person	3	4	
Caswell	2	5	
Wake	12	~~20~~ 21	Apex, Wendell, Fuquay-Varina, Wake Forest
Harnett	7	11	Dunn
Johnston	10	12	Benson, Clayton, Selma
Lee	4	6	
Cumberland	10	19	
Bladen	4	6	
Brunswick	4	~~8~~ 9	
Columbus	6	9	Tabor City
Durham	8	13	
Alamance	7	~~10~~ 11	Burlington
Orange	4	11	Chapel Hill
Chatham	3	~~8~~ 9	Siler City
Scotland	3	5	
Hoke	4	5	
Robeson	8	16	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
Rockingham	4	9	Reidsville,

			Eden,
			Madison
	Stokes	2	5
	Surry	5	9 Mt. Airy
	Guilford	20	~~26~~ 27 High Point
	Cabarrus	5	9 Kannapolis
	Montgomery	2	4
	Randolph	5	10 Liberty
	Rowan	5	10
	Stanly	5	6
	Union	4	7
	Anson	4	~~5~~ 6
	Richmond	5	6 Hamlet
	Moore	5	8 Southern
			Pines
	Forsyth	3	15 Kernersville
	Alexander	2	~~3~~ 4
	Davidson	7	10 Thomasville
	Davie	2	3
	Iredell	4	9 Mooresville
	Alleghany	1	2
	Ashe	3	4
	Wilkes	4	6
	Yadkin	3	5
	Avery	3	5
	Madison	4	5
	Mitchell	3	4
	Watauga	4	6
	Yancey	2	4
	Burke	4	7
	Caldwell	4	7
	Catawba	6	10 Hickory
	Mecklenburg	15	~~27~~ 28
	Gaston	11	22
	Cleveland	5	8
	Lincoln	4	7
	Buncombe	6	15
	Henderson	4	7
	McDowell	3	~~5~~ 6
	Polk	3	4
	Rutherford	6	8
	Transylvania	2	4
	Cherokee	3	4
	Clay	1	2
	Graham	2	3
	Haywood	5	7 Canton
	Jackson	3	~~4~~ 5
	Macon	3	4
	Swain	2	3."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom, Albertson, Reeves, Miller, Phillips, Metcalf, Carter, Wellons

ADDITIONAL DISTRICT COURT JUDGES

Section 15.3.(a) G.S. 7A-133(a) reads as rewritten:

"(a) Each district court district shall have the numbers of judges as set forth in the following table:

District	Judges	County
1	~~4~~ 5	Camden
		Chowan
		Currituck
		Dare
		Gates
		Pasquotank
		Perquimans
2	4	Martin
		Beaufort
		Tyrrell
		Hyde
		Washington
3A	5	Pitt
3B	5	Craven
		Pamlico
		Carteret
4	~~7~~ 8	Sampson
		Duplin
		Jones
		Onslow
5	7	New Hanover
		Pender
6A	2	Halifax
6B	3	Northampton
		Bertie
		Hertford
7	7	Nash
		Edgecombe
		Wilson
8	6	Wayne
		Greene
		Lenoir
9	4	Granville
		(part of Vance see subsection (b))
		Franklin
9A	2	Person
		Caswell

9B	~~1~~ 2	Warren (part of Vance see subsection (b))
10	~~13~~ 14	Wake
11	~~7~~ 8	Harnett Johnston Lee
12	9	Cumberland
13	6	Bladen Brunswick Columbus
14	6	Durham
15A	4	Alamance
15B	4	Orange Chatham
16A	3	Scotland Hoke
16B	5	Robeson
17A	~~2~~ 3	Rockingham
17B	3	Stokes Surry
18	12	Guilford
19A	4	Cabarrus
19B	6	Montgomery Moore Randolph
19C	4	Rowan
20	7	Stanly Union Anson Richmond
21	8	Forsyth
22	~~8~~ 9	Alexander Davidson Davie Iredell
23	4	Alleghany Ashe Wilkes Yadkin
24	4	Avery Madison Mitchell Watauga Yancey
25	8	Burke Caldwell Catawba
26	~~16~~ 17	Mecklenburg

27A	6	Gaston
27B	4	Cleveland
		Lincoln
28	~~5~~ 6	Buncombe
29	6	Henderson
		McDowell
		Polk
		Rutherford
		Transylvania
30	5	Cherokee
		Clay
		Graham
		Haywood
		Jackson
		Macon
		Swain."

Section 15.3.(b) Notwithstanding the provisions of G.S. 7A-142, the Governor shall appoint additional district court judges for District Court Districts 1, 4, 9B, 10, 11, 17A, 22, 26, and 28, as authorized by subsection (a) of this section. Those judges' successors shall be elected in the 2004 election for four-year terms commencing on the first Monday in December 2004.

Section 15.3.(c) Subsection (a) of this section becomes effective December 15, 2000, as to any district in which no county is subject to section 5 of the Voting Rights Act of 1965. As to any district in which any county is subject to section 5 of the Voting Rights Act of 1965, subsection (a) becomes effective December 15, 2000, or 15 days after the date upon which that subsection is approved under section 5 of the Voting Rights Act of 1965, whichever is later.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom, Rand, Cooper, Wellons, Martin of Pitt, Albertson

WORTHLESS CHECK PROGRAM

Section 15.3A.(a) Subsection (d) of Section 18.22 of S.L. 1997-443, as amended by Section 16.3 of S.L. 1998-212 and Section 17.7 of S.L. 1999-237, reads as rewritten:

"(d) This act applies only to Brunswick, Bladen, Columbus, Cumberland, Durham, Edgecombe, Nash, New Hanover, Onslow, Pender, Rockingham, ~~and Wake~~ Wake, and Wilson Counties."

Section 15.3A.(b) Section 17.7(c) of S.L. 1999-237 reads as rewritten:

"Section 17.7.(c) The Administrative Office of the Courts shall report by April 1 of each year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the implementation of the ~~bad~~ worthless check collection programs in Columbus, Durham, Rockingham, and Wake Counties and the establishment of such programs in Bladen, Brunswick, Cumberland,

Edgecombe, Nash, New Hanover, Onslow, ~~and Pender~~ Pender, and Wilson Counties, including their effectiveness in assisting the recipients of worthless checks in obtaining restitution and the amount of time saved in prosecuting worthless check cases."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Clodfelter, Plyler, Perdue, Odom

AUTHORIZE COURT OFFICIALS TO APPLY TO THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE COURTS TO ENTER INTO CONTRACTS WITH LOCAL GOVERNMENTS FOR THE PROVISION OF JUDICIAL SECRETARIES, TEMPORARY ASSISTANT PUBLIC DEFENDERS, ASSISTANT CLERKS, DEPUTY CLERKS, AND OTHER EMPLOYEES IN THE OFFICE OF THE CLERK OF COURT WHEN THE PUBLIC INTEREST WARRANTS THE USE OF ADDITIONAL COURT RESOURCES

Section 15.4.(a) G.S. 7A-44.1 reads as rewritten:

"*§ 7A-44.1. Secretarial and clerical help.*

(a) Each senior resident superior court judge may appoint a judicial secretary to serve at his pleasure and under his direction the secretarial and clerical needs of the superior court judges of the district or set of districts as defined by G.S. 7A-41.1(a) for which he is the senior resident superior court judge. The appointment may be full- or part-time and the compensation and allowances of such secretary shall be fixed by the senior regular resident superior court judge, within limits determined by the Administrative Office of the Courts, and paid by the State.

(b) Each senior resident superior court judge may apply to the Director of the Administrative Office of the Courts to enter into contracts with local governments for the provision by the State of services of judicial secretaries pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(c) The Director of the Administrative Office of the Courts may provide assistance requested pursuant to subsection (b) of this section only upon a showing by the senior resident superior court judge, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(d) The terms of any contract entered into with local governments pursuant to subsection (b) of this section shall be fixed by the Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the

Courts to maintain positions or services initially provided for under this section."

Section 15.4.(b) G.S. 7A-102 is amended by adding three new subsections to read:

"(e) A clerk of superior court may apply to the Director of the Administrative Office of the Courts to enter into contracts with local governments for the provision by the State of services of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(f) The Director of the Administrative Office of the Courts may provide assistance requested pursuant to subsection (e) of this section only upon a showing by the senior resident superior court judge, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(g) The terms of any contract entered into with local governments pursuant to subsection (e) of this section shall be fixed by the Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

Section 15.4.(c) G.S. 7A-300 reads as rewritten:

"§ *7A-300. Expenses paid from State funds.*

(a) The operating expenses of the Judicial Department shall be paid from State funds, out of appropriations for this purpose made by the General ~~Assembly.~~ Assembly, or from funds provided by local governments pursuant to G.S. 153A-212.1 and G.S. 160A-289.1. The Administrative Office of the Courts shall prepare budget estimates to cover these expenses, including therein the following items and such other items as are deemed necessary for the proper functioning of the Judicial Department:

(1) Salaries, departmental expense, printing and other costs of the appellate division;

(2) Salaries and expenses of superior court judges, district attorneys, assistant district attorneys, public defenders, and assistant public defenders, and fees and expenses of counsel assigned to represent indigents under the provisions of Subchapter IX of this Chapter;

(3) Salaries, travel expenses, departmental expense, printing and other costs of the Administrative Office of the Courts;

(4) Salaries and travel expenses of district judges, magistrates, and family court counselors;

(5) Salaries and travel expenses of clerks of superior court, their assistants, deputies, and other employees, and the expenses of their offices, including supplies and materials, postage, telephone and telegraph, bonds and insurance, equipment, and other necessary items;
(6) Fees and travel expenses of jurors, and of witnesses required to be paid by the State;
(7) Compensation and allowances of court reporters;
(8) Briefs for counsel and transcripts and other records for adequate appellate review when an appeal is taken by an indigent person;
(9) Transcripts of preliminary hearings in indigency cases and, in cases in which the defendant pays for a transcript of the preliminary hearing, a copy for the district attorney;
(10) Transcript of the evidence and trial court charge furnished the district attorney when a criminal action is appealed to the appellate division;
(11) All other expenses arising out of the operations of the Judicial Department which by law are made the responsibility of the State; and
(12) Operating expenses of the Judicial Council and the Judicial Standards Commission.

(b) Repealed by Session Laws 1971, c. 377, ~~c. 32."~~ s. 32."

Section 15.4.(d) G.S. 7A-467 is amended by adding three new subsections to read:

"(e) A public defender may apply to the Director of the Administrative Office of the Courts to enter into contracts with local governments for the provision by the State of services of temporary assistant public defenders pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(f) The Director of the Administrative Office of the Courts may provide assistance requested pursuant to subsection (e) of this section only upon a showing by the requesting public defender, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(g) The terms of any contract entered into with local governments pursuant to subsection (e) of this section shall be fixed by the Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

Section 15.4.(e) G.S. 153A-212.1 reads as rewritten:

"§ *153A-212.1. Resources to protect the public.*

Subject to the requirements of G.S. 7A-41, 7A-44.1, 7A-64, 7A-102, 7A-133, and 7A-467, a county may appropriate funds under contract with the State for the provision of services for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving threats to public safety. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

Section 15.4.(f) G.S. 160A-289.1 reads as rewritten:

"§ *160A-289.1. Resources to protect the public.*

Subject to the requirements of G.S. 7A-41, 7A-44.1, 7A-64, 7A-102, 7A-133, and 7A-467, a city may appropriate funds under contract with the State for the provision of services for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving threats to public safety. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

Section 15.4.(g) G.S. 7A-64(c) reads as rewritten:

"(c) The length of service and compensation of any temporary appointee or the terms of any contract entered into with local governments shall be fixed by Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this ~~section.~~ section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

Section 15.4.(h) The Administrative Office of the Courts shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Committees, to the Chairs of the House of Representatives Subcommittee on Justice and Public Safety, and to the Chairs of the Senate Appropriations Committee on Justice and Public Safety on contracts entered into with local governments for the provision of the services of assistant district attorneys, assistant public defenders, judicial secretaries, and employees in the office of the Clerk of Superior Court. The report shall include the number of applications made to the Administrative Office of the Courts for these contracts, the number of contracts entered for provision of these positions, and the dollar amounts of each contract.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Haire, Senators Jordan, Ballance, Plyler, Perdue, Odom

ADDITIONAL COURT OF APPEALS JUDGES

Section 15.5.(a) G.S. 7A-16 reads as rewritten:

"*§ 7A-16. Creation and organization.*

The Court of Appeals is created effective January 1, 1967. It shall consist initially of six judges, elected by the qualified voters of the State for terms of eight years. The Chief Justice of the Supreme Court shall designate one of the judges as Chief Judge, to serve in such capacity at the pleasure of the Chief Justice. Before entering upon the duties of his office, a judge of the Court of Appeals shall take the oath of office prescribed for a judge of the General Court of Justice.

The Governor on or after July 1, 1967, shall make temporary appointments to the six initial judgeships. The appointees shall serve until January 1, 1969. Their successors shall be elected at the general election for members of the General Assembly in November, 1968, and shall take office on January 1, 1969, to serve for the remainder of the unexpired term which began on January 1, 1967.

Upon the appointment of at least five judges, and the designation of a Chief Judge, the court is authorized to convene, organize, and promulgate, subject to the approval of the Supreme Court, such supplementary rules as it deems necessary and appropriate for the discharge of the judicial business lawfully assigned to it.

Effective January 1, 1969, the number of judges is increased to nine, and the Governor, on or after March 1, 1969, shall make temporary appointments to the additional judgeships thus created. The appointees shall serve until January 1, 1971. Their successors shall be elected at the general election for members of the General Assembly in November, 1970, and shall take office on January 1, 1971, to serve for the remainder of the unexpired term which began on January 1, 1969.

Effective January 1, 1977, the number of judges is increased to 12; and the Governor, on or after July 1, 1977, shall make temporary appointments to the additional judgeships thus created. The appointees shall serve until January 1, 1979. Their successors shall be elected at the general election for members of the General Assembly in November, 1978, and shall take office on January 1, 1979, to serve the remainder of the unexpired term which began on January 1, 1977.

On or after December 15, 2000, the Governor shall appoint three additional judges to increase the number of judges to 15. Each judgeship shall not become effective until the temporary appointment is made, and each appointee shall serve from the date of qualification until January 1, 2005. Those judges' successors shall be elected in the 2004 general election and shall take office on January 1, 2005, to serve terms expiring December 31, 2012.

The Court of Appeals shall sit in panels of three judges each. The Chief Judge insofar as practicable shall assign the members to panels in such fashion that each member sits a substantially equal number of

times with each other member. He shall preside over the panel of which he is a member, and shall designate the presiding judge of the other panel or panels.

Three judges shall constitute a quorum for the transaction of the business of the court, except as may be provided in § 7A-32.

In the event the Chief Judge is unable, on account of absence or temporary incapacity, to perform the duties placed upon him as Chief Judge, the Chief Justice shall appoint an acting Chief Judge from the other judges of the Court, to temporarily discharge the duties of Chief Judge."

Section 15.5.(b) This section becomes effective December 15, 2000.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom, Albertson

ADDITIONAL SUPERIOR COURT JUDGES

Section 15.6.(a) G.S. 7A-41(a) reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
First	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
First	3A	Pitt	2
Second	3B	Carteret, Craven, Pamlico	2
Second	4A	Duplin, Jones, Sampson	1
Second	4B	Onslow	~~1~~ 2
Second	5	New Hanover, Pender	3
First	6A	Halifax	1
First	6B	Bertie, Hertford, Northampton	1
First	7A	Nash	1
First	7B	(part of Wilson, part of Edgecombe,	1

		see subsection (b))	
First	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
Second	8A	Lenoir and Greene	1
Second	8B	Wayne	1
Third	9	Franklin, Granville, Vance, Warren	2
Third	9A	Person, Caswell	1
Third	10A	(part of Wake, see subsection (b))	2
Third	10B	(part of Wake, see subsection (b))	2
Third	10C	(part of Wake, see subsection (b))	1
Third	10D	(part of Wake, see subsection (b))	1
Fourth	11A	Harnett, Lee	1
Fourth	11B	Johnston	1
Fourth	12A	(part of Cumberland, see subsection (b))	1
Fourth	12B	(part of Cumberland, see subsection (b))	1
Fourth	12C	(part of Cumberland, see subsection (b))	2
Fourth	13	Bladen, Brunswick, Columbus	2
Third	14A	(part of Durham, see subsection (b))	1
Third	14B	(part of Durham, see subsection (b))	3
Third	15A	Alamance	2
Third	15B	Orange, Chatham	1
Fourth	16A	Scotland, Hoke	1
Fourth	16B	Robeson	2
Fifth	17A	Rockingham	2
Fifth	17B	Stokes, Surry	2
Fifth	18A	(part of Guilford, see subsection (b))	1
Fifth	18B	(part of Guilford, see subsection (b))	1
Fifth	18C	(part of Guilford, see subsection (b))	1
Fifth	18D	(part of Guilford, see subsection (b))	1
Fifth	18E	(part of Guilford, see subsection (b))	1
Sixth	19A	Cabarrus	1

Fifth	19B	Montgomery, Moore, Randolph	2
Sixth	19C	Rowan	1
Sixth	20A	Anson, Richmond	1
Sixth	20B	Stanly, Union	2
Fifth	21A	(part of Forsyth, see subsection (b))	1
Fifth	21B	(part of Forsyth, see subsection (b))	1
Fifth	21C	(part of Forsyth, see subsection (b))	1
Fifth	21D	(part of Forsyth, see subsection (b))	1
Sixth	22	Alexander, Davidson, Davie, Iredell	3
Fifth	23	Alleghany, Ashe, Wilkes, Yadkin	1
Eighth	24	Avery, Madison, Mitchell, Watauga, Yancey	1
Seventh	25A	Burke, Caldwell	2
Seventh	25B	Catawba	2
Seventh	26A	(part of Mecklenburg, see subsection (b))	2
Seventh	26B	(part of Mecklenburg, see subsection (b))	~~2~~ 3
Seventh	26C	(part of Mecklenburg, see subsection (b))	2
Seventh	27A	Gaston	2
Seventh	27B	Cleveland, Lincoln	2
Eighth	28	Buncombe	2
Eighth	29	Henderson, McDowell, Polk, Rutherford, Transylvania	2
Eighth	30A	Cherokee, Clay, Graham, Macon, Swain	1
Eighth	30B	Haywood, Jackson	1."

Section 15.6.(b) The Governor shall appoint a superior court judge for the additional judgeship in Superior Court District 26B as authorized by subsection (a) of this section. The successor to that judge shall be elected in the 2002 general election to serve a term expiring December 31, 2010.

The Governor shall appoint a superior court judge for the additional judgeship in Superior Court District 4B as authorized by subsection (a) of this section. The successor to that judge shall be elected in the 2002 general election to serve the remainder of the

unexpired term expiring December 31, 2006, in order to provide for unstaggered terms for multiple judgeships in the same district.

Section 15.6.(c) Subsection (a) of this section becomes effective December 15, 2000, as to any district in which no county is subject to section 5 of the Voting Rights Act of 1965. As to any district in which any county is subject to section 5 of the Voting Rights Act of 1965, subsection (a) of this section becomes effective December 15, 2000, or 15 days after the date upon which that subsection is approved under section 5 of the Voting Rights Act of 1965, whichever is later.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

JUDICIAL DEPARTMENT EQUIPMENT REPLACEMENT COSTS

Section 15.7. G.S. 143-11(b) reads as rewritten:

"(b) The Director shall accompany the budget with:

(1) A budget message supporting his recommendations and outlining a financial policy and program for the ensuing biennium. The message will include an explanation of increase or decrease over past expenditures, a discussion of proposed changes in existing revenue laws and proposed bond issues, their purpose, the amount, rate of interest, term, the requirements to be attached to their issuance and the effect such issues will have upon the redemption and annual interest charges of the State debt.

(2) State Controller reports including:

a. An itemized and complete financial statement for the State at the close of the last preceding fiscal year ending June 30.

b. A statement of special funds.

(2a) A statement showing the itemized estimates of the condition of the State treasury as of the beginning and end of each of the next two fiscal years.

(3) A report on the fees charged by each State department, bureau, division, board, commission, institution, and agency during the previous fiscal year, the statutory or regulatory authority for each fee, the amount of the fee, when the amount of the fee was last changed, the number of times the fee was collected during the prior fiscal year, and the total receipts from the fee during the prior fiscal year.

(4) A statement showing the State Board of Education's request, in accordance with G.S. 115C-96, for sufficient funds to provide textbooks to public school students.

(5) A proposal for expenditure of the funds in the Repairs and Renovations Reserve Account, which is established in G.S. 143-15.3A. The Director shall consider the data from the Facilities Condition and Assessment Program in the Office

of State Construction when establishing priorities for the proposed expenditure of these funds.

(6) Statements of the objections of members of the Council of State received pursuant to G.S. 143-10.3(b) to the performance measures, departmental operations plans, and indicators of program impact prepared in accordance with G.S. 143-10.3, 143-10.4, and 143-10.5.

(7) A list of the budget requests of members of the Council of State that are not included in the proposed budget.

(8) An estimate of the equipment replacement costs within the Judicial Department for the period covered by that budget.

It shall be a compliance with this section by each incoming Governor, at the first session of the General Assembly in his term, to submit the budget report with the message of the outgoing Governor, if he shall deem it proper to prepare such message, together with any comments or recommendations thereon that he may see fit to make, either at the time of the submission of the said report to the General Assembly, or at such other time, or times, as he may elect and fix.

The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

REDUCE SPECIAL SUPERIOR COURT JUDGESHIPS/EXTEND TERM OF SPECIAL SUPERIOR COURT JUDGE

Section 15.8.(a) G.S. 7A-45.1(a) reads as rewritten:

"(a) Effective November 1, 1993, the Governor may appoint two special superior court judges to serve terms expiring September 30, 2000. Effective October 1, 2000, one of those positions is abolished. Successors to the special superior court ~~judges~~ judge appointed pursuant to this subsection shall be appointed to a five-year ~~terms.~~ term. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district."

Section 15.8.(b) Section 24.7 of Chapter 769 of the 1993 Session Laws, as amended by Chapter 18 of the Session Laws of the 1996 Second Extra Session, reads as rewritten:

"Sec. 24.7. Notwithstanding G.S. 7A-45, G.S. 7A-45.1, Section 7 of Chapter 509 of the 1987 Session Laws, or any other provision of law, if any special superior court judge who is holding office on the effective date of this act first took office as an appointed or elected regular or special superior court judge in the calendar year 1986, the term of that judge is extended through ~~September 30, 2000.~~ December 31, 2000."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

SENTENCING SERVICES PROGRAM

Section 15.9.(a) The title to Subchapter XIII of Chapter 7A of the General Statutes reads as rewritten:

"SUBCHAPTER XIII. ~~COMMUNITY PENALTIES~~ SENTENCING SERVICES PROGRAM."

Section 15.9.(b) G.S. 7A-773.1(d) reads as rewritten:

"(d) To the extent allowed by law, the sentencing services program shall develop procedures to ensure that the program staff may work with offenders before a plea is entered. To that end, ~~no~~ information obtained in the course of preparing a sentencing plan may not be used by the State for ~~the~~ any purpose ~~of establishing guilt.~~ at trial and is subject to the provisions of G.S. 15A-1333."

Section 15.9.(c) G.S. 15A-1333 reads as rewritten:

"§ *15A-1333. Availability of presentence report.*

(a) Presentence Reports and Sentencing Services Information Not Public Records. -- A written presentence ~~report and~~ report, the record of an oral presentence ~~report~~ report, and information obtained in the preparation of a sentencing plan by a sentencing services program under Article 61 of Chapter 7A are not public records and may not be made available to any person except as provided in this section.

(b) Access to Reports. -- The defendant, his counsel, the prosecutor, or the court may have access at any reasonable time to a written presentence report or to any record of an oral presentence report. Access to a sentencing plan and information obtained in the preparation of a sentencing plan shall be in accordance with the comprehensive sentencing services program plan developed pursuant to G.S. 7A-774.

(c) Expunging Reports. -- On motion of the defendant, the court in its discretion may order a written presentence ~~report or~~ report, the record of an oral presentence ~~report~~ report, or a sentencing plan expunged from the court record."

PART XVI. DEPARTMENT OF CORRECTION

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

MODIFICATION OF FUNDING FORMULA FOR THE NORTH CAROLINA STATE-COUNTY CRIMINAL JUSTICE PARTNERSHIP ACT

Section 16. Section 18 of S.L. 1999-237 reads as rewritten:

"Section 18.(a) Notwithstanding the funding formula set forth in G.S. 143B-273.15, appropriations made to the Department of Correction through the North Carolina State-County Criminal Justice Partnership Act for the 1999-2000 fiscal year and the 2000-2001 fiscal year shall be distributed to the counties as specified in G.S. 143B-

273.15(2) only, and not as discretionary funds. The Department may also use funds from the State-County Criminal Justice Partnership Account in order to maintain the counties' allocations of nine million six hundred thousand dollars ($9,600,000) as provided in previous fiscal years.

Section 18.(b) Appropriations not claimed or expended by the counties during the 1999-2000 fiscal year and the 2000-2001 fiscal year shall be distributed as specified in G.S. 143B-273.15(1). A single county may apply for discretionary funds under G.S. 143B-273.15(1) for a residential program that serves offenders from other counties; in order for those other counties to assign offenders to such a program, those counties shall include a residential component in an approved partnership plan.

Section 18.(c) The Department of Correction may not deny funds to a county to support both a residential program and a day reporting center if the Department of Correction determines that the county has a demonstrated need and a fully-developed plan for each type of sanction.

Section 18.(d) The Department of Correction shall report by ~~February 1, 2000,~~ February 1 of each year to the Chairs of the Senate and House Appropriations Committees, the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections and Crime Control Oversight Committee on the status of the Criminal Justice Partnership Program. The report shall include the following information:

(1) The amount of funds carried over from the ~~1998-99 fiscal year to the 1999-2000 fiscal year;~~ prior fiscal year;
(2) The dollar amount and purpose of grants awarded to counties as discretionary grants for ~~1999-2000;~~ the current fiscal year;
(3) Any counties the Department anticipates will submit requests for new implementation grants;
(4) The number of counties submitting offender participation data via the electronic reporting system;
(5) An analysis of offender participation data ~~received during 1999-2000;~~ received; and
(6) An update on efforts to ensure that all counties make use of the electronic reporting system."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON STAFFING REORGANIZATION AND REDUCTION

Section 16.1. Section 18.1 of S.L. 1999-237 reads as rewritten:

"Section 18.1. The Post-Release Supervision and Parole Commission shall report by ~~March 1, 2000,~~ March 1 of each year to

the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on an updated transition plan for implementing staff reductions through the 2002-2003 fiscal year, including a minimum ten percent (10%) reduction in staff positions in the 2000-2001 fiscal year over the 1999-2000 fiscal year."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM

Section 16.2. Subsection (a) of Section 18.10 of S.L. 1999-237 reads as rewritten:

"Section 18.10.(a) The Department of Correction may use funds appropriated to the Department for the 1999-2000 fiscal year and the 2000-2001 fiscal year to pay the sum of forty dollars ($40.00) per day as reimbursement to counties for the cost of housing convicted inmates and parolees and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections and Crime Control Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

BAN PRIVATE PRISONS HOUSING OUT-OF-STATE INMATES

Section 16.3.(a) Article 3 of Chapter 148 of the General Statutes is amended by adding a new section to read:

"*§ 148-37.1. Prohibition on private prisons housing out-of-state inmates.*

(a) Except as otherwise provided in this section or authorized by North Carolina law, no municipality, county, or private entity may authorize, construct, own, or operate any type of correctional facility for the confinement of inmates serving sentences for violation of the laws of a jurisdiction other than North Carolina.

(b) The provisions of this section shall not apply to facilities owned or operated by the federal government and used exclusively for the confinement of inmates serving sentences for violation of federal law, but only to the extent that such facilities are not subject to restriction by the states under the provisions of the United States Constitution."

Section 16.3.(b) Subsection (c) of Section 19.17 of S.L. 1997-443, as amended by subsection (c) of Section 17.23 of S.L. 1998-212 and subsection (b) of Section 18.19 of S.L. 1999-237, is repealed.

Section 16.3.(c) This section is effective when it becomes law.

PART XVII. DEPARTMENT OF JUSTICE

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

CRIMINAL JUSTICE INFORMATION NETWORK REPORT

Section 17. Section 19.2 of S.L. 1999-237 reads as rewritten:

"Section 19.2. The Criminal Justice Information Network Governing Board created pursuant to Section 23.3 of Chapter 18 of the Session Laws of the 1996 Second Extra Session shall report by ~~March 1, 2000,~~ March 1, 2001, to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly on:

(1) The operations of the Board, including the Board's progress in developing data-sharing standards in cooperation with State and local agencies and the estimated time of completion of the standards;

(2) The operating budget of the Board, the expenditures of the Board as of the date of the report, and the amount of funds in reserve for the operation of the Board; and

(3) A long-term strategic plan and cost analysis for statewide implementation of the Criminal Justice Information Network. For each component of the Network, the initial cost estimate of the component, the amount of funds spent to date on the component, the source of funds for expenditures to date, and a timetable for completion of that component, including additional resources needed at each point."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

Section 17.1. Section 19.3 of S.L. 1999-237 reads as rewritten:

"Section 19.3.(a) Assets transferred to the Department of Justice during the 1999-2001 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of the Department and shall result in an increase of law enforcement resources for the Department. Assets transferred to the Department of Crime Control and Public Safety during the 1999-2001 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of the Department and shall result in an

increase of law enforcement resources for the Department. The Departments of Justice and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended, except during the ~~1999-2000 fiscal year,~~ 1999-2001 fiscal biennium, the Department of Justice may:

(1) Use an amount not to exceed the sum of twenty-five thousand dollars ($25,000) of the funds to extend the lease of space in the Town of Salemburg for training for the State Bureau of Investigation; and

(2) Use an amount not to exceed the sum of fifty thousand dollars ($50,000) of the funds to lease space for its technical operations unit, storage of its equipment and vehicles, and command post vehicle.

Section 19.3.(b) The General Assembly finds that the use of assets transferred pursuant to 19 U.S.C. § 1616a for new personnel positions, new projects, the acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

Section 19.3.(c) Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice pursuant to 19 U.S.C. § 1616a."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

TRAFFIC LAW ENFORCEMENT STATISTICS

Section 17.2.(a) G.S. 114-10(2a) reads as rewritten:

"(2a) To collect, correlate, and maintain the following information regarding traffic law enforcement by State law enforcement officers:

a. The number of drivers stopped for routine traffic enforcement by State law enforcement ~~officers~~ officers, the officer making each stop, the date each stop was made, the agency of the officer making each stop, and whether or not a citation or warning was issued;

b. Identifying characteristics of the drivers stopped, including the race or ethnicity, approximate age, and gender;

c. The alleged traffic violation that led to the stop;

d. Whether a search was instituted as a result of the stop;

e. Whether the vehicle, personal effects, driver, or passenger or passengers were searched, and the race

or ethnicity, approximate age, and gender of each person searched;

f. Whether the search was conducted pursuant to consent, probable cause, or reasonable suspicion to suspect a crime, including the basis for the request for consent, or the circumstances establishing probable cause or reasonable suspicion;

g. Whether any contraband was found and the type and amount of any such contraband;

h. Whether any written citation or any oral or written warning was issued as a result of the stop;

i. Whether an arrest was made as a result of either the stop or the search;

j. Whether any property was seized, with a description of that property;

k. Whether the officers making the stop encountered any physical resistance from the driver or passenger or passengers;

l. Whether the officers making the stop engaged in the use of force against the driver, passenger, or passengers for any reason;

m. Whether any injuries resulted from the stop; ~~and~~

n. Whether the circumstances surrounding the stop were the subject of any investigation, and the results of that ~~investigation.~~ investigation; and

o. The geographic location of the stop; if the officer making the stop is a member of the State Highway Patrol, the location shall be the Highway Patrol District in which the stop was made; for all other law enforcement officers, the location shall be the city or county in which the stop was made.

The information required by this subdivision need not be collected in connection with impaired driving checks under G.S. 20-16.3A or other types of roadblocks, vehicle checks, or checkpoints that are consistent with the laws of this State and with the State and federal constitutions, except when those stops result in a warning, search, seizure, arrest, or any of the other activity described in sub-subdivisions d. through n. of this subdivision.

The identity of the law enforcement officer making the stop required by sub-subdivision a. of this subdivision may be accomplished by assigning anonymous identification numbers to each officer in an agency. The correlation between the identification numbers and the names of the officers shall not be a public record, and shall not be disclosed by the agency except when required by order of a court of competent

jurisdiction to resolve a claim or defense properly before the court."

Section 17.2.(b) This section becomes effective August 1, 2000.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

CERTIFICATION OF DEPARTMENT OF CORRECTION EMPLOYEES

Section 17.3.(a) G.S. 17C-2 reads as rewritten:

"*17C-2. Definitions.*

Unless the context clearly otherwise requires, the following definitions apply in this Chapter:

(1) Commission. -- The North Carolina Criminal Justice Education and Training Standards Commission.

(2) Criminal justice agencies. -- The State and local law-enforcement agencies, ~~the State correctional agencies,~~ other correctional agencies maintained by local governments, and the juvenile justice agencies, but shall not include deputy sheriffs, special deputy sheriffs, sheriffs "jailers, or other sheriffs" department personnel governed by the provisions of Chapter 17E of these General Statutes.

(3) Criminal justice officers. -- The administrative and subordinate personnel of all the departments, agencies, units or entities comprising the criminal justice agencies who are sworn law-enforcement officers, both State and local, with the power of arrest; revenue law enforcement officers; ~~State correctional officers; State probation/parole officers;~~ officers, supervisory and administrative personnel of local confinement facilities; ~~State youth services officers; State probation/parole intake officers; State probation/parole officers-surveillance; State probation/parole intensive officers; and State parole case analysts.~~ and State youth services officers.

(4) Entry level. -- The initial appointment or employment of any person by a criminal justice agency, or any appointment or employment of a person previously employed by a criminal justice agency who has not been employed by a criminal justice agency for the 12-month period preceding this appointment or employment, or any appointment or employment of a previously certified criminal justice officer to a position which requires a different type of certification."

Section 17.3.(b) G.S. 17C-3 reads as rewritten:

"*17C-3. North Carolina Criminal Justice Education and Training Standards Commission established; members; terms; vacancies.*

(a) There is established the North Carolina Criminal Justice Education and Training Standards Commission, hereinafter called "the Commission," in the Department of Justice. The Commission shall be composed of ~~26~~ 25 members as follows:

(1) Police Chiefs. -- Three police chiefs selected by the North Carolina Association of Chiefs of Police and one police chief appointed by the Governor.

(2) Police Officers. -- Three police officials appointed by the North Carolina Police Executives Association and two criminal justice officers certified by the Commission as selected by the North Carolina Law-Enforcement Officers' Association.

(3) Departments. -- The Attorney General of the State of North Carolina; the Secretary of the Department of Crime Control and Public Safety; ~~the Secretary of the Department of Correction;~~ the President of the Department of Community Colleges.

(3a) A representative of the Office of Juvenile Justice.

(4) At-large Groups. -- One individual representing and appointed by each of the following organizations: one mayor selected by the League of Municipalities; one law-enforcement training officer selected by the North Carolina Law-Enforcement Training Officers' Association; one criminal justice professional selected by the North Carolina Criminal Justice Association; one sworn law-enforcement officer selected by the North State Law-Enforcement Officers' Association; one member selected by the North Carolina Law-Enforcement Women's Association; and one District Attorney selected by the North Carolina Association of District Attorneys.

(5) Citizens and Others. -- The President of The University of North Carolina; the Director of the Institute of Government; and two citizens, one of whom shall be selected by the Governor and one of whom shall be selected by the Attorney General. The General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-122. Appointments by the General Assembly shall serve two-year terms to conclude on June 30th in odd-numbered years.

(b) The members shall be appointed for staggered terms. The initial appointments shall be made prior to September 1, 1983, and the appointees shall hold office until July 1 of the year in which their respective terms expire and until their successors are appointed and qualified as provided hereafter:

For the terms of one year: one member from subdivision (1) of subsection (a), serving as a police chief; three members from

subdivision (2) of subsection (a), one serving as a police official, and two criminal justice officers; one member from subdivision (4) of subsection (a), appointed by the North Carolina Law-Enforcement Training Officers' Association; and two members from subdivision (5) of subsection (a), one appointed by the Governor and one appointed by the Attorney General.

For the terms of two years: one member from subdivision (1) of subsection (a), serving as a police chief; one member from subdivision (2) of subsection (a), serving as a police official; and two members from subdivision (4) of subsection (a), one appointed by the League of Municipalities and one appointed by the North Carolina Association of District Attorneys.

For the terms of three years: two members from subdivision (1) of subsection (a), one police chief appointed by the North Carolina Association of Chiefs of Police and one police chief appointed by the Governor; one member from subdivision (2) of subsection (a), serving as a police official; and three members from subdivision (4) of subsection (a), one appointed by the North Carolina Law-Enforcement Women's Association, one appointed by the North Carolina Criminal Justice Association, and one appointed by the North State Law-Enforcement Officers' Association.

Thereafter, as the term of each member expires, his successor shall be appointed for a term of three years. Notwithstanding the appointments for a term of years, each member shall serve at the will of the appointing authority.

The Attorney General, the Secretary of the Department of Crime Control and Public Safety, ~~the Secretary of the Department of Correction,~~ the President of The University of North Carolina, the Director of the Institute of Government, and the President of the Department of Community Colleges shall be continuing members of the Commission during their tenure. These members of the Commission shall serve ex officio and shall perform their duties on the Commission in addition to the other duties of their offices. The ex officio members may elect to serve personally at any or all meetings of the Commission or may designate, in writing, one member of their respective office, department, university or agency to represent and vote for them on the Commission at all meetings the ex officio members are unable to attend.

Vacancies in the Commission occurring for any reason shall be filled, for the unexpired term, by the authority making the original appointment of the person causing the vacancy. A vacancy may be created by removal of a Commission member by majority vote of the Commission for misconduct, incompetence, or neglect of duty. A Commission member may be removed only pursuant to a hearing, after notice, at which the member subject to removal has an opportunity to be heard."

Section 17.3.(c) This section becomes effective June 30, 2001, unless the Criminal Justice Education and Training Standards Commission has established and implemented by the convening of the

2001 General Assembly a new certification system for employees in the Department of Correction, as originally requested of the Commission in Section 18.14 of S.L. 1999-237 for implementation no later than July 1, 2000. The Commission shall report on the new system to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by the convening of the 2001 General Assembly. If the system has not been established and implemented by the convening of the 2001 General Assembly, it is the intent of the General Assembly to develop a new system for the certification of employees of the Department of Correction and to enact that system to coincide with the repeal of the Commission's authority over the certification of correctional employees effective June 30, 2001.

PART XVIII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Baddour, Sexton, Senators Jordan, Ballance, Plyler, Perdue, Odom

INCREASE THE EDUCATIONAL ASSISTANCE GRANTS FOR MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD

Section 18. G.S. 127A-193 reads as rewritten:

"*127A-193. Benefit.*

The benefit provided under this Article shall consist of a monetary educational assistance grant not to exceed ~~one~~ two thousand dollars ~~($1,000)~~ ($2,000) per academic year to qualifying members of the North Carolina national guard. Benefits shall be payable for a period of one academic year at a time, renewable at the option of the Secretary for a maximum of ~~four~~ eight thousand dollars ~~($4,000).~~ ($8,000)."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

PARTIAL CASH BALANCE REVERSION

Section 18.1. Notwithstanding the provisions of G.S. 15B-23, the sum of one million twenty-five thousand dollars ($1,025,000) from the cash balance of the Crime Victims Compensation Fund shall revert to the General Fund on July 1, 2000, to be used for domestic violence programs, the rape victim assistance program, and other victims' assistance programs.

PART XIX. OFFICE OF JUVENILE JUSTICE

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

TRANSFER CENTER FOR PREVENTION OF SCHOOL VIOLENCE TO THE OFFICE OF JUVENILE JUSTICE

Section 19. The Center for Prevention of School Violence currently operating under The University of North Carolina, and all functions, powers, duties, and obligations vested in The University of North Carolina for the Center, are hereby transferred to the Office of Juvenile Justice. This transfer has all the components of a Type I transfer as that term is defined in G.S. 143A-6(a).

The Center as a component of the Office of Juvenile Justice shall continue to consult with The University of North Carolina and the Department of Public Instruction to enhance research opportunities and specialized study areas such as teacher preparation, school resource officer development, suicide prevention, and best practices.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

TRANSFER OF POSITIONS AND SUPPORT COSTS FOR THE JUVENILE INFORMATION NETWORK FROM THE DEPARTMENT OF JUSTICE TO THE OFFICE OF JUVENILE JUSTICE

Section 19.1. The Department of Justice shall transfer to the Office of Juvenile Justice the three positions and the sum of two hundred twenty-five thousand dollars ($225,000) appropriated in this act for support of the Juvenile Information System Network.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

REVISE REPORTING REQUIREMENTS OF STAFFING AT TRAINING SCHOOLS AND DETENTION CENTERS STUDY

Section 19.2. Section 21.4 of S.L. 1999-237 reads as rewritten:

"Section 21.4. Of the funds appropriated in this act to the Office of Juvenile Justice for the 1999-2000 fiscal year, the Office may use up to seventy-five thousand dollars ($75,000) to contract with consultants for a study of staffing in training schools and detention centers. The study shall consider the appropriate staffing patterns for the juvenile population of training schools and detention centers as a result of the goals and objectives for those facilities set forth in S.L. 1998-202, the Juvenile Justice Act. The study shall consider whether:

(1) Training schools and detention centers are staffed with the appropriate number of custodial staff and staff that administers treatment, education, and counseling to juveniles housed in the facilities;

(2) Staff of the training schools and detention centers has the appropriate classification, training, and experience to provide juveniles housed in the facilities with the required treatment and guidance; and

(3) Salary levels for current or proposed position classifications are appropriate.

The study shall include a review of the appropriate staffing patterns on each shift, the impact of previous or potential lawsuits or liability issues on staffing levels and types, an analysis of the current guidelines on staffing ratios, the accuracy of the staffing relief formula, and the effectiveness of the current systems for scheduling staff workdays and days off. The consultant shall consult with the Office of State Personnel, the Office of Juvenile Justice, and the Fiscal Research Division of the General Assembly in developing the study objectives and a work plan.

The final product shall include a report that addresses the issues stated in this section and a staffing plan by shift for each training school and detention center.

The Office of Juvenile Justice shall report the results and recommendations of the study to the Chairs of the House and Senate Appropriations ~~Committees and~~ Committees, the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public ~~Safety~~ Safety, and the Joint Legislative Commission on Governmental Operations on or before ~~April 1, 2000.~~ September 1, 2000."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

REPORTS OF FUNDS FOR LOCAL ORGANIZATIONS OF THE BOYS AND GIRLS CLUBS

Section 19.3.(a) Section 21.10.(c) of S.L. 1999-237 reads as rewritten:

"Section 21.10.(c) The Office of Juvenile Justice shall report by ~~April 1, 2000,~~ April 1, 2001, to the Joint Legislative Commission on Governmental Operations, the Chairs of the House and Senate Appropriations Committees, and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State appropriations and on the operations and the effectiveness of the program, including information on the number of juveniles served."

Section 19.3.(b) Before expending any funds appropriated for the Boys and Girls Clubs to establish any new local organization of the Boys and Girls Clubs, the Office of Juvenile Justice shall reconsider counties that were eligible for the establishment of local organizations, but not funded in the 1999-2000 fiscal year. The Office shall expend funds for fully accredited organizations of the Boys and Girls Clubs only. The Office shall report to the Chairs of the House and Senate Appropriations Committees on the proposed new local organization, including the location of the organization and the amount of funds the Office proposes to expend on the organization.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

Section 19.4.(a) Section 21.11 of S.L. 1999-237 reads as rewritten:

"Section 21.11. Funds appropriated in this act to the Office of Juvenile Justice for the ~~1999-2000 fiscal year~~ 1999-2001 biennium may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission of the Department of Crime Control and Public Safety shall consult with the Office of Juvenile Justice regarding the criteria for awarding federal funds. The Office of State Budget and ~~Management and~~ Management, the Governor's Crime ~~Commission~~ Commission, and the Office of Juvenile Justice shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the ~~1999-2000~~ 2000-2001 fiscal year, the amount of funds anticipated for the ~~2000-2001~~ 2001-2002 fiscal year, and the allocation of funds by program and purpose."

Section 19.4.(b) If the Governor transfers the authority for administration of the Juvenile Accountability Incentive Block Grants to the Office of Juvenile Justice prior to the end of the 2000-2001 fiscal year, the Office of Juvenile Justice shall consult with the Office of State Budget and Management and the Governor's Crime Commission of the Department of Crime Control and Public Safety regarding the criteria for awarding federal funds. The Office shall make the report required by subsection (a) of this section pursuant to the requirements set forth in the subsection.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

REVISE REQUIREMENTS OF MULTIFUNCTIONAL JUVENILE FACILITY

Section 19.5.(a) Section 21.13(i) of S.L. 1999-237 reads as rewritten:

"Section 21.13.(i) State Authority Over Offenders. -- The Office of Juvenile Justice may, in the discretion of the Director, provide services to and house juveniles who are involved in the North Carolina juvenile justice system in a facility constructed and operated by a private entity. The Office of Juvenile Justice shall house only juveniles who are in the North Carolina juvenile justice system in the facility. Juvenile offenders housed in private facilities shall be governed by the State laws applicable to juvenile offenders housed in

State facilities, including educational requirements mandated by State and federal law."

Section 19.5.(b) Section 21.13(j) of S.L. 1999-237 reads as rewritten:

"Section 21.13.(j) Report. -- The Office of Juvenile Justice shall make a written report no later than ~~March 1, 2000,~~ March 1, 2001, on the status of the pilot program and shall evaluate the program annually and report on the findings of the evaluations by ~~March 1, 2001,~~ May 1, 2002, and ~~January 1, 2002.~~ May 1, 2003. The reports shall be submitted to the Chairs of the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom, Dannelly, Clodfelter

MECKLENBURG COUNTY MULTIPURPOSE GROUP HOMES

Section 19.6. The funds appropriated in S.L. 1998-212 and reallocated in S.L. 1999-237 to the Office of Juvenile Justice to construct an eight-bed secure group home for female offenders in Mecklenburg County and to upgrade the Gatling Detention Center to meet fire marshal standards may be used to construct two eight-bed multipurpose group homes to house juvenile offenders. A maximum of two beds per home may be designated for secure detention. The homes may be used to house male juvenile offenders until the population of female juvenile offenders in the area served by the facilities increases such that both homes are needed to house female offenders. The Office of Juvenile Justice may contract with Mecklenburg County to implement this section and to assure that the multipurpose group homes authorized pursuant to this section are consistent with similar facilities in this State.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Baddour, Senators Jordan, Ballance, Plyler, Perdue, Odom

TRANSFER OF GUARD RESPONSE ALTERNATIVE SENTENCING PROGRAM TO THE OFFICE OF JUVENILE JUSTICE

Section 19.7. The Guard Response Alternative Sentencing Program developed pursuant to S.L. 1998-202, and all functions, powers, duties, and obligations vested in the Department of Crime Control and Public Safety for the Guard Response Alternative Sentencing Program, are hereby transferred to the Office of Juvenile Justice. This transfer has all the components of a Type I transfer as that term is defined in G.S. 143A-6(a). The Program shall continue to function as an additional probation option for certain first-time juveniles who have been adjudicated delinquent and who are subject to Level 2 disposition.

Requested by: Representatives Baddour, Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

TRANSFER FUNDS TO DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Section 19.8. If either House Bill 1804 or Senate Bill 1462 of the 1999 General Assembly becomes law, all funds appropriated in this act to the Office of Juvenile Justice shall be transferred to the Department of Juvenile Justice and Delinquency Prevention.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom, Garrou

FORSYTH DETENTION CENTER

Section 19.9. The sum of one million seven hundred fifty thousand dollars ($1,750,000) appropriated in the 1999-2000 fiscal year to the Office of Juvenile Justice for a grant-in-aid for construction of the Forsyth Detention Center may be carried forward to the 2000-2001 fiscal year to allow adequate time for completion of a needs assessment by Forsyth County and for review and evaluation by the Office of Forsyth County's plan for the Center.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Ballance, Jordan, Plyler, Perdue, Odom

S.O.S. ADMINISTRATIVE COST LIMITS

Section 19.10. Section 21.3 of S.L. 1999-237 reads as rewritten:

"Section 21.3. Of the funds appropriated to the Office of Juvenile Justice in this act, not more than four hundred fifty thousand dollars ($450,000) for the 1999-2000 fiscal year and not more than ~~four hundred fifty thousand dollars ($450,000)~~ five hundred fifty thousand dollars ($550,000) for the 2000-2001 fiscal year may be used to administer the S.O.S. Program, to provide technical assistance to applicants and to local S.O.S. programs, and to evaluate the local S.O.S. programs. The Office may contract with appropriate public or nonprofit agencies to provide the technical assistance, including training and related services."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Redwine, Senators Jordan, Ballance, Plyler, Perdue, Odom

MANAGEMENT INFORMATION SYSTEM COSTS

Section 19.11. The Office of Juvenile Justice may use up to the sum of three hundred thousand dollars ($300,000) in funds available to the Office for the 2000-2001 fiscal year to support recurring communications costs in its management information systems.

PART XX. GENERAL ASSEMBLY

Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

EXTEND TECHNOLOGICAL INFRASTRUCTURE STUDY REPORTING DATE

Section 20. Section 22.2 of S.L. 1999-237 reads as rewritten:

"Section 22.2. The Joint Select Committee on Information Technology, established pursuant to Section 22 of this act, shall study, evaluate, and recommend changes in the current technological infrastructure of the Department of the Secretary of State and the Department of the State Treasurer. The Committee shall:

(1) Consider the feasibility and advisability of moving the Secretary of State's applications from the ITS mainframe to in-house servers and allowing the Secretary of State to develop and support its own computer applications;

(2) Consider the need to replace, update, or modify the information technology infrastructure within the Department of the State Treasurer and existing banking system which supports the State Treasurer's Investment and Banking Operations Division; and

(3) Study, evaluate, and recommend the level of audit staff needed in the Office of the State Auditor to provide for adequate audit coverage of the computer applications and installation in State government.

The Committee shall report by ~~April 1, 2000,~~ December 1, 2000, to the Appropriations Committees of the Senate and House of Representatives."

Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Thompson, Senators Warren, Lucas, Plyler, Perdue, Odom, Reeves, Miller

ILLUMINATE THE NIGHTTIME DISPLAY OF THE UNITED STATES AND NORTH CAROLINA FLAGS AT THE LEGISLATIVE BUILDING

Section 20.1. The citizens of this State are proud of the federal and State flags, but neither flag is flown during darkness at the Legislative Building, the center of North Carolina's State government.

Of funds appropriated to the General Assembly, the sum of four thousand eight hundred dollars ($4,800) for the 2000-2001 fiscal year shall be used to allow for the illumination of both the federal and State flags at the Legislative Building during darkness.

Requested by: Representatives Earle, Nye, Jeffus, Wainwright, Easterling, Redwine, Senators Martin of Guilford, Purcell, Warren, Lucas, Plyler, Perdue, Odom

LEGISLATIVE STUDY ON PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY AND DISABLED PERSONS

Section 20.2.(a) There is established the Legislative Study Commission on Prescription Drug Assistance for Elderly and Disabled Persons. The Commission shall have 12 members, four members of the Senate appointed by the President Pro Tempore of the Senate, four members of the House of Representatives appointed by the Speaker of the House of Representatives, and four members appointed by the Governor.

Section 20.2.(b) The purpose of the study is to determine the feasibility of assisting all elderly and disabled residents of North Carolina who need assistance with the purchase of prescription drugs because of lack of government-sponsored or private health insurance coverage for prescription drugs. The study shall include the following:

(1) A review of the Department of Health and Human Services "Report on Proposal for a Prescription Drug Assistance Program for Low-Income Elderly and Disabled." Because of the high cost of prescription drugs and the critical need for these drugs to maintain or improve health status, it is also important to assist elderly and disabled persons of a higher income bracket who have no health insurance coverage for prescription drugs.

(2) Feasibility of tax credits for the purchase of prescription drugs or for the purchase of health insurance coverage for prescription drugs.

(3) Feasibility of catastrophic or stop-loss insurance coverage for prescription drugs.

(4) Review of other State proposals to address this problem such as The Heinz Plan of Massachusetts.

(5) Review of the use of drug rebates or other types of discounts.

(6) Consider possible interaction between various state proposals and federal actions and proposals.

(7) Other activities as determined by the Commission.

Section 20.2.(c) The Commission may contract for actuarial services to develop cost estimates for various proposals considered by the Commission. The Commission may receive funds from other sources to carry out its study.

Section 20.2.(d) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee."

Section 20.2.(e) A quorum of the Committee is six members. No action may be taken except by a majority vote at a meeting at

which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

Section 20.2.(f) Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment and end on the day of the convening of the 2001 General Assembly. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until the member's successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

Section 20.2.(g) The Committee shall make an interim report to the 2001 General Assembly on January 1, 2001 and May 1, 2002, and shall make its final report to the 2003 General Assembly upon its convening. Upon making its final report, the Committee shall expire.

PART XXI. DEPARTMENT OF ADMINISTRATION

Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Senators Warren, Lucas, Rand, Albertson, Robinson, Plyler, Perdue, Odom, Kerr

NATIONAL WORLD WAR II MEMORIAL FUNDS

Section 21. Of the funds appropriated in this act to the Department of Administration for the 2000-2001 fiscal year, the sum of three hundred ninety-two thousand dollars ($392,000) shall be used by the Division of Veterans Affairs to fund the voluntary contribution of the State toward the construction of the National World War II Memorial in Washington, D.C.

Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

COST-BENEFIT ANALYSIS OF CONSTRUCTING STATE FACILITIES INSTEAD OF LEASING PROPERTY FOR STATE OPERATIONS

Section 21.1. Section 24.1 of S.L. 1999-237 reads as rewritten:

"Section 24.1. The State Property Office and the State Construction Office, in consultation with the Office of State Budget and Management, shall conduct a cost benefit analysis of constructing new State-owned facilities instead of leasing property for State government operations. The analysis shall consider:

(1) Factors relating to the cost of State-owned facilities including (i) the cost and availability of land, (ii) design, planning, and construction costs in Raleigh and throughout the State,

(iii) projected ongoing operation and maintenance costs, and (iv) projected repairs and renovation costs; and

(2) Factors relating to the cost of leased space including (i) lease rates within Raleigh and throughout the State, (ii) availability of property for lease within Raleigh and throughout the State, taking into account the various types of space needed by State agencies including office, laboratory, warehouse, storage, conference and meeting space, and other types of property, (iii) renewal options and costs, (iv) utility, janitorial, and other operating expenses, and (v) relocation expenses, including moving and upfit expenses.

The State Property Office and the State Construction Office shall report on the results of the cost-benefit analysis to the Joint Legislative Commission on Governmental Operations prior to ~~March 30, 2000.~~ January 1, 2001."

Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

REPEAL HEALTH CARE PURCHASING ALLIANCE ACT

Section 21.2.(a) Article 66 of Chapter 143 of the General Statutes is repealed.

Section 21.2.(b) This section becomes effective December 31, 2000.

Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

PROCUREMENT CARD PILOT PROGRAM EXTENSION/SAVINGS

Section 21.3. Section 20.3(a) of S.L. 1998-212, as rewritten by Section 24 of S.L. 1999-237, reads as rewritten:

"(a) Except as provided by this section, no State agency, community college, constituent institution of The University of North Carolina, or local school administrative unit may use procurement cards for the purchase of equipment or supplies before ~~August 1, 2000.~~ August 1, 2001."

Requested by: Representatives Sutton, Jeffus, Wainwright, Easterling, Redwine, Senators Weinstein, Warren, Lucas, Plyler, Perdue, Odom

AUTHORIZE THE COMMISSION OF INDIAN AFFAIRS TO USE FUNDS FOR REPAIRS, RENOVATIONS, AND OTHER CAPITAL IMPROVEMENTS TO THE RIVERSIDE GOLF COURSE ON STATE PROPERTY IN ROBESON COUNTY

Section 21.4. Funds received by the North Carolina Commission of Indian Affairs pursuant to the lease executed between the State of North Carolina and the Riverside Golf Course in Robeson County may be expended for repairs, renovations, or other capital improvements to the leased property.

Funds held by the Commission pursuant to that lease on July 1, 2000, shall be provided to the Riverside Golf Course for those

purposes as soon as practicable. The Department of Administration and the Commission of Indian Affairs shall develop a procedure by which the Riverside Golf Course can apply to the Commission for the use of future funds deposited with the Commission pursuant to the lease for any proposed repairs, renovations, or other capital improvements to the property.

Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Senators Perdue, Warren, Lucas, Plyler, Odom

NORTH CAROLINA COUNCIL FOR WOMEN/ABUSER TREATMENT PROGRAMS

Section 21.5. Notwithstanding the provisions of G.S. 150B-21.1(a), the Department of Administration may adopt temporary rules to approve abuser treatment programs that apply to the North Carolina Council for Women.

PART XXII. OFFICE OF THE STATE CONTROLLER

Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

OVERPAYMENTS PROJECT

Section 22.(a) During the 2000-2001 fiscal year, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

Section 22.(b) For the 2000-2001 fiscal year, five hundred fifty thousand dollars ($550,000) of the funds transferred from the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs.

Section 22.(c) All funds available in the Special Reserve Account 24172 on July 1, 2000, are transferred to the General Fund on that date.

Section 22.(d) Any unobligated funds in the Special Reserve Account 24172 that are realized above the allowance in subsection (b) of this section are subject to appropriation by the General Assembly in the 2001 Session.

Section 22.(e) The State Controller shall report monthly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into the Special Reserve Account, and the disbursement of that revenue.

Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

PILOT PROGRAM ON REPORTING ON COLLECTION OF BAD DEBTS BY STATE AGENCIES EXTENDED

Section 22.1.(a) The General Assembly, having been presented additional information related to a limited 90-day Bad Debt Clearinghouse Proof of Concept Prototype for the collection of previously determined "uncollectible" accounts, now requests that additional State agencies with a material amount of accounts receivable bad debts be included in a one-year pilot to further determine the feasibility of implementing a centralized Bad Debt Collection Clearinghouse Program.

Section 22.1.(b) The Office of State Controller shall establish a procedure by which State agencies/institutions with a material amount of accounts receivable shall report on collection of bad debts. This pilot program is intended to concentrate on agencies that have a large amount of bad debts in order to determine the extent to which those debts may be better collected both in those agencies and in the whole of State government. The Office of State Controller may solicit information from collection agencies concerning the possibility of these agencies maintaining a central debt collection database limited to those State agencies without restrictive data security or confidentiality issues. Procedures for direct access to qualified collection agencies may be established for agencies with restrictive data security or confidentiality issues when legal and contractual authority permits this action.

Section 22.1.(c) The Office of State Controller shall administer a one-year Bad Debt Collection Clearinghouse Pilot. The pilot shall address the use of one or more private collection agencies and may make provision to allow local government units to participate in this pilot program. The pilot shall further address whether the potential Bad Debt Collection Clearinghouse Program should be administered jointly by the Department of Revenue and the Office of the State Controller.

Section 22.1.(d) The Office of State Controller shall report the results of the Bad Debt Collection Clearinghouse Pilot to the General Assembly no later than May 15, 2001, along with recommendations on changes in law or procedure to better collect the bad debts including the feasibility of implementing a centralized Bad Debt Collection Clearinghouse.

PART XXIII. OFFICE OF STATE BUDGET AND MANAGEMENT

Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

CONSOLIDATION OF THE OFFICE OF STATE BUDGET AND MANAGEMENT AND THE OFFICE OF STATE PLANNING

Section 23.(a) Effective July 1, 2000, the Office of State Budget and Management and the Office of State Planning are consolidated into the Office of State Budget, Planning, and Management under the Office of the Governor. General Fund budget codes 13005 and 13006 shall be consolidated in the certified budget for the 2000-2001 fiscal year to reflect the consolidation of the offices.

Section 23.(b) The Department of Environment and Natural Resources shall transfer from the Division of Land Resources to the Office of State Budget, Planning, and Management:

(1) The responsibility for development of topographic mapping through a cooperative agreement with the U.S. Geological Survey, and

(2) Funds in the amount of one hundred seventy-seven thousand dollars ($177,000) to match the federal funding under the cooperative agreement.

Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

NORTH CAROLINA YOUTH LEGISLATIVE ASSEMBLY FUND

Section 23.1. Part 7 of Article 9 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"*§ 143B-387.1. North Carolina Youth Legislative Assembly Fund.*

The North Carolina Youth Legislative Assembly Fund is created as a special and nonreverting fund. North Carolina Youth Legislative Assembly registration fees, gifts, donations, or contributions shall be credited to the North Carolina Youth Legislative Assembly Fund.

The fund shall be used solely to support planning and execution of the North Carolina Youth Legislative Assembly."

PART XXIIIB. OFFICE OF ADMINISTRATIVE HEARINGS

Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom, Miller, Reeves,

OFFICE OF ADMINISTRATIVE HEARINGS CLASSIFICATION STUDY

Section 23B. The Office of State Personnel shall review and make recommendations on the classification of positions in the Office of Administrative Hearings. The Office of State Personnel shall report its findings by January 31, 2001, to the Chief Administrative Law Judge, to the Chairs of the Joint Appropriations Committee on General Government, and to the Fiscal Research Division.

PART XXIV. RULES REVIEW COMMISSION

Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

RESERVE FOR ATTORNEYS' FEES OF RULES REVIEW COMMISSION

Section 24.(a) A reserve is established in the Office of State Budget and Management. This reserve shall consist of appropriations from the General Assembly and funds received from any State agency in accordance with this section.

Section 24.(b) When a State agency files a petition for judicial review of a final decision of the Rules Review Commission under

Article 4 of Chapter 150B of the General Statutes and the Rules Review Commission prevails in that action, that State agency shall deposit to the reserve under subsection (a) of this section a sum equal to the Commission's actual attorneys' fees.

PART XXIVA. DEPARTMENT OF STATE TREASURER

Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom

DEPARTMENT OF STATE TREASURER INFORMATION TECHNOLOGY SYSTEMS

Section 24A. After consulting with the Select Committee on Information Technology and the Joint Legislative Commission on Governmental Operations and after consultation with and approval of the Information Resources Management Commission, the Department of State Treasurer may spend departmental receipts for the 2000-2001 fiscal year to continue improvement of the Department's investment banking operations system, retirement payroll systems, and other information technology infrastructure needs. The Department of State Treasurer shall report by January 1, 2001, and annually thereafter to the following regarding the amount and use of the departmental receipts: the Joint Legislative Commission on Governmental Operations, the Chairs of the General Government Appropriations Subcommittees of both the House of Representatives and the Senate, and the Select Committee on Information Technology.

PART XXIVB. SECRETARY OF STATE

Requested by: Representatives Wainwright, Jeffus, Easterling, Redwine, Senators Warren, Lucas, Plyler, Perdue, Odom, Hartsell

SECRETARY OF STATE UCC FILINGS

Section 24B.1. Of the funds appropriated in this act to the Department of the Secretary of State for the 2000-2001 fiscal year, the Department may use up to the sum of eight hundred sixty-eight thousand six hundred sixty-four dollars ($868,664) in recurring funds and one million eight hundred ninety-one thousand four dollars ($1,891,004) in nonrecurring funds for personnel, start-up expenses, and operating costs necessary for the implementation of Senate Bill 1305, 1999 General Assembly, if it becomes law. Prior to using any of these funds or establishing any of the 41 positions authorized by the General Assembly, the Department shall present its plan for implementing Senate Bill 1305, 1999 General Assembly, to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Subcommittees on General Government, and the Joint Select Committee on Information Technology. The Department shall maintain monthly reports on UCC filings and, on a quarterly basis, submit the reports to the House and Senate Appropriations Subcommittees on General Government and the Fiscal Research Division. The reports shall include: the number of

filings, the time required to process the filings, the filings per employee ratio, and the actual and projected revenue from filing fees.

PART XXV. DEPARTMENT OF TRANSPORTATION

Requested by: Representatives Cole, Crawford, Easterling, Redwine, Senators Gulley, Plyler, Perdue, Odom

CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

Section 25.(a) The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

FY 2001-2002 $1,281.1 million
FY 2002-2003 $1,303.7 million
FY 2003-2004 $1,331.0 million
FY 2004-2005 $1,336.2 million.

The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

FY 2001-2002 $1,042.1 million
FY 2002-2003 $1,083.6 million
FY 2003-2004 $1,127.6 million
FY 2004-2005 $1,176.5 million.

Section 25.(b) Section 27 of S.L. 1999-237 is repealed.

Requested by: Representatives Cole, Crawford, Easterling, Redwine, Senators Gulley, Plyler, Perdue, Odom

STATE HIGHWAY PATROL TO STUDY REIMBURSEMENTS FOR COSTS OF ADDED SPECIAL SERVICES AT SCHEDULED EVENTS

Section 25.2. The State Highway Patrol shall study the implementation of a program for the reimbursement to the State of North Carolina of costs for added services provided by the Patrol at various categories of scheduled events.

Any program shall provide for a determination of normal law enforcement costs and the added costs, including additional supervision, added shifts, and overtime.

The State Highway Patrol shall report the results of this study, along with any recommendations containing legislative proposals to the Joint Legislative Transportation Oversight Committee by November 1, 2000.

Requested by: Representatives Baddour, Cole, Crawford, Easterling, Redwine, Senators Kerr, Warren, Plyler, Perdue, Odom

GLOBAL TRANSPARK CONSTRUCTION BONDS

Section 25.3. G.S. 63A-4(a)(22) reads as rewritten:

"(a) The Authority shall have all of the powers necessary to execute the provisions of this Chapter, which shall include at least the following powers:

. . .

(22) To issue obligations, without Local Government Commission approval, to finance the purchase or acquisition of land or options on ~~land.~~ land, or the construction of buildings or facilities. An obligation may be secured by the land purchased or acquired, or by the buildings or facilities constructed, may be unsecured, or may be made payable from revenues, the proceeds of notes, bonds, or the sale of any lands, the proceeds of any bonds of the State or moneys appropriated by the State, or any other available moneys of the Authority. An obligation to finance the purchase or acquisition of land or options on ~~land~~ land, or the construction of buildings or facilities, may be sold only to the Escheat Fund as an investment of the Fund pursuant to G.S. 147-69.2(b)(11)."

Requested by: Representatives Cole, Crawford, Easterling, Redwine, Senators Gulley, Plyler, Perdue, Odom

UNPAVED ROAD IMPROVEMENT PILOT PROGRAM

Section 25.4.(a) Funds appropriated from the Highway Fund for the unpaved road improvement pilot program for the 2000-2001 fiscal year shall be used by the Department of Transportation in the following manner:

(1) The Department shall establish eligibility guidelines for the unpaved roads to be improved under the pilot program. These guidelines may include the requirement that the eligible unpaved roads appear on a map or plat filed with the register of deeds and that any roads selected allow for public access. These guidelines may include neighborhood public roads as defined in G.S. 136-67. These guidelines shall be based on the number of permanently occupied houses per mile served by the road, the need for road improvement based on condition, and any other factors deemed relevant by the Department.

(2) The Department shall select at least one eligible county in each of the seven Distribution Regions as defined in G.S. 136-17.2A to be included in the pilot program by applying the guidelines developed pursuant to subdivision (1) of this section.

(3) The Department shall report to the Joint Legislative Transportation Oversight Committee on the developed eligibility guidelines and the nature of the proposed improvements before any of the funds for the pilot program are expended.

(4) The pilot program shall provide for the minimal improvements of the selected unpaved roads. The pilot program may include grading and spreading gravel to allow emergency vehicles and other public vehicles access to the houses on those unpaved roads. The pilot program is not intended to address major drainage problems or to provide

for the paving, reconstruction, or widening of the unpaved roads to bring them up to standards necessary for acceptance onto the State highway system.

(5) The Department of Transportation may contract with private vendors to perform the actual minimal improvements to the selected roads.

(6) Based on the pilot program, the Department shall report to the Joint Legislative Transportation Oversight Committee, by December 31, 2000, on all of the following:

a. The implementation of the program including the nature of the improvements performed on the selected unpaved roads.

b. The costs of expanding the pilot program statewide, including the number, location, and length of eligible unpaved roads that require minimal improvement to provide access to public vehicles and costs to provide those improvements.

c. The total number of eligible unpaved roads and the cost to bring those roads up to standards necessary for acceptance onto the State highway system and the projected additional cost of maintaining those roads once they are on the State highway system.

Section 25.4.(b) Improvements of an unpaved road under this pilot program do not obligate the State to further improve or maintain the unpaved road in the future.

Section 25.4.(c) The State shall not be liable for any direct or indirect damages alleged to have been caused by the improvement of the unpaved road.

Requested by: Representatives Cole, Crawford, Easterling, Redwine, Senators Hoyle, Gulley, Plyler, Perdue, Odom

STUDY OF COMMISSION CONTRACTS FOR ISSUANCE OF MOTOR VEHICLE REGISTRATION PLATES AND CERTIFICATES

Section 25.5.(a) The Commission to Study Commission Contracts for the Issuance of Motor Vehicle Registration Plates and Certificates is created. The Commission shall consist of 11 members:

(1) Four Senators appointed by the President Pro Tempore of the Senate and four Representatives appointed by the Speaker of the House of Representatives.

(2) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint one person currently contracted with the Division of Motor Vehicles to issue registration plates and certificates.

(3) The Commissioner of Motor Vehicles or the Commissioner's designee shall serve as a voting member of the Commission.

Section 25.5.(b) The President Pro Tempore of the Senate shall designate one Senator as cochair and the Speaker of the House of Representatives shall designate one Representative as cochair.

Section 25.5.(c) The Commission shall:

(1) Review the history and policies that led to the enactment of G.S. 20-63(h) providing for contracts for the issuance of registration plates and certificates.

(2) Study the current implementation and consequences of the provisions of G.S. 20-63(h).

(3) Study how registration plates and certificates are issued in other states.

(4) Study the implications and potential effects on the contract agents of the authority of the Division of Motor Vehicles to use electronic applications and collections authorized in G.S. 20-63(i).

(5) Study any other factors it deems relevant related to the use of contract agents for the issuance of registration plates and certificates.

(6) Make findings and recommendations on improving the services related to the issuance of registration plates and certificates to the citizens of North Carolina while reducing the costs to the State.

Section 25.5.(d) The Commission shall submit a final report of its findings and recommendations to the General Assembly on or before the first day of the 2001 Session of the General Assembly by filing the report with the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Upon filing its final report, the Commission shall terminate.

Section 25.5.(e) The Commission, while in the discharge of official duties, may exercise all the powers provided for under the provisions of G.S. 120-19, and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairs. The Commission may meet in the State Legislative Building or the Legislative Office Building.

Section 25.5.(f) Legislative members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1. Nonlegislative members shall receive subsistence and travel expenses at the rates set forth in G.S. 138-5.

Section 25.5.(g) The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. The Legislative Services Commission, through the Legislative Administrative Officer, shall assign professional staff to assist in the work of the Commission. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the commission or committee, upon the direction of the Legislative Services Commission. The expenses relating to clerical employees shall be borne by the Commission.

Section 25.5.(h) When a vacancy occurs in the membership of the Commission, the vacancy shall be filled by the same appointing officer who made the initial appointment.

Section 25.5.(i) All State departments and agencies and local governments and their subdivisions shall furnish the Commission with any information in their possession or available to them.

Section 25.5.(j) There is appropriated from the Highway Fund to the General Assembly the sum of twenty-five thousand dollars ($25,000) for the 2000-2001 fiscal year for the expenses of the Commission.

Section 25.5.(k) This act becomes effective July 1, 2000.

Requested by: Representatives Cole, Crawford, Easterling, Redwine, Senators Gulley, Plyler, Perdue, Odom

CLARIFY DEVELOPMENT AUTHORITY OF REGIONAL PUBLIC TRANSPORTATION AUTHORITIES

Section 25.6. G.S. 160A-610 reads as rewritten:

"§ *160A-610. General powers of the Authority.*

The general powers of the Authority shall include any or all of the following:

. . .

(7a) To enhance mobility within the region and promote sound growth patterns through joint transit development projects as generally described by Federal Transit Administration (FTA) policy at 62 Fed. Reg. 12266 (1997) and implementing guidelines in FTA Circular 9300.1A, Appendix B, as the policy and guidance may be amended; and, with respect to the planning, construction, and operation of joint transit development projects, upon the governing board's adoption of policies and procedures to ensure fair and open competition, to select developers or development teams in substantially the same manner as permitted by G.S. 143-129(h); and to enter into development agreements with public, private, or nonprofit entities to undertake the planning, construction, and operation of joint transit development projects."

Requested by: Representatives Cole, Crawford, Easterling, Redwine, Senators Gulley, Plyler, Perdue, Odom

STATE FULL FUNDING GRANT AGREEMENTS WITH TRANSPORTATION AUTHORITIES AND MUNICIPALITIES

Section 25.7. G.S. 136-44.20 is amended by adding a new subsection to read:

"(b1) The Secretary may, subject to the appropriations made by the General Assembly for any fiscal year, enter into State Full Funding Grant Agreements with a Regional Public Transportation Authority (RPTA) duly created and existing pursuant to Article 26 of Chapter 160A, a Regional Transportation Authority (RTA) duly created and existing pursuant to Article 27 of Chapter 160A, or a city organized

under the laws of this State as defined in G.S. 160A-1(2), to provide State matching funds for 'new start' fixed guideway projects in development by any entity pursuant to 49 U.S.C. § 5309. These grant agreements shall be executable only upon an Authority's or city's completion of and the Federal Transit Administration (FTA) approval of Preliminary Engineering and Environmental Impact Studies in anticipation of federal funding pursuant to 49 U.S.C. § 5309.

Prior to executing State Full Funding Grant Agreements, the Secretary shall submit proposed grant agreements or amendments to the Joint Legislative Transportation Oversight Committee for review. The agreements, consistent with federal guidance, shall define the limits of the 'new starts' projects within the State, commit maximum levels of State financial participation, and establish terms and conditions of State financial participation.

State Full Funding Grant Agreements may provide for contribution of State funds in multiyear allotments. The multiyear allotments shall be based upon the Department's estimates, made in conjunction with an Authority or city, of the grant amount required for 'new start' project work to be performed in the appropriation fiscal year."

Requested by: Representatives Cole, Crawford, Easterling, Redwine, Baker, Senators Albertson, Gulley, Plyler, Perdue, Odom

EXEMPT FARM TRUCKS FROM THE STATE REQUIREMENTS THAT CERTAIN BUSINESS VEHICLES BE MARKED

Section 25.8. G.S. 20-101 reads as rewritten:

"*§ 20-101. Certain business vehicles to be marked.*

A motor vehicle that is subject to 49 ~~U.S.C.~~ C.F.R. Part 390, the federal motor carrier safety regulations, ~~must~~ shall be marked as required by that Part.

A motor vehicle that is not subject to those regulations, has a gross vehicle weight rating of more than 10,000 pounds, ~~and~~ is used in intrastate ~~commerce~~ commerce, and is not a farm vehicle, as further described in G.S. 20-118 (c)(4), (c)(5), or (c)(12), ~~must~~ shall have the name of the owner printed on the side of the vehicle in letters not less than three inches in height.

A motor vehicle that is subject to regulation by the North Carolina Utilities Commission ~~must~~ shall be marked as required by that Commission and as otherwise required by this section."

Requested by: Representatives Cole, Crawford, Easterling, Redwine, Senators Gulley, Plyler, Perdue, Odom

DETENTION OF COMMERCIAL VEHICLES UNTIL FINES AND PENALTIES ARE PAID

Section 25.11. G.S. 20-96 reads as rewritten:

"*§ 20-96. Detaining property-hauling vehicles or vehicles regulated by the Motor Carrier Safety Regulation Unit until fines or penalties and taxes are collected.*

(a) Authority to Detain Vehicles. -- A law enforcement officer may seize and detain the following property-hauling vehicles operating on the highways of the State:

(1) A property-hauling vehicle with an overload in violation of G.S. 20-88(k) and G.S. 20-118.

(2) A property-hauling vehicle that does not have a proper registration plate as required under G.S. 20-118.3.

(3) A property-hauling vehicle that is owned by a person liable for any overload penalties or assessments due and unpaid for more than 30 days.

(4) A property-hauling vehicle that is owned by a person liable for any taxes or penalties under Article 36B of Chapter 105 of the General Statutes.

(5) Any commercial vehicle operating under the authority of a motor carrier when the motor carrier has been assessed a fine pursuant to G.S. 20-17.7 and that fine has not been paid.

The officer may detain the vehicle until the delinquent fines or penalties and taxes are paid and, in the case of a vehicle that does not have the proper registration plate, until the proper registration plate is secured.

(b) Storage; Liability. -- When necessary, an officer who detains a vehicle under this section may have the vehicle stored. The motor carrier under whose authority the vehicle is being operated or the owner of a vehicle that is detained or stored under this section is responsible for the care of any property being hauled by the vehicle and for any storage charges. The State shall not be liable for damage to the vehicle or loss of the property being hauled."

Requested by: Representatives Cole, Crawford, Easterling, Redwine, Senators Garrou, Horton, Plyler, Perdue, Odom

DOT TO LEASE RIGHT-OF-WAY OF HIGHWAY 421/BUSINESS 40 TO WAKE FOREST UNIVERSITY FOR MEDICAL SCHOOL PARKING

Section 25.12. The Department of Transportation may lease to Wake Forest University on behalf of its School of Medicine the portion of the right-of-way of Highway 421/Business 40 below and adjacent to the elevated roadway and lying between Cloverdale Avenue on the west and Hawthorne Road on the east, exclusive of any street right-of-way, for parking purposes in conjunction with private nonprofit hospital or other health programs or facility purposes as those terms are now used in G.S. 160A-209(c)(17).

No parking facility shall be established that, in the opinion of the Department of Transportation, does any of the following:

(1) Unreasonably interferes or impairs any property rights or easements of abutting owners.

(2) Unreasonably interferes or obstructs the public use of Highway 421/Business 40.

(3) Unreasonably interferes with or obstructs the maintenance of the highway structure located on the right-of-way.

Requested by: Representatives Cole, Crawford, Easterling, Redwine, Senators Carter, Metcalf, Robinson, Gulley, Plyler, Perdue, Odom

WESTERN NORTH CAROLINA PASSENGER RAIL INFRASTRUCTURE FUNDS PLACED IN RESERVE

Section 25.13. The funds appropriated for the 1998-1999 fiscal year for infrastructure improvements in connection with the implementation of passenger rail service in Western North Carolina remaining unencumbered and unexpended shall be placed in a reserve and shall remain unencumbered and unexpended until further action by the General Assembly.

Requested by: Representatives Cole, Crawford, Easterling, Redwine, Senators Gulley, Plyler, Perdue, Odom

JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO STUDY HIGHWAY FUND AND HIGHWAY TRUST FUND CASH BALANCES AND USE OF CASH-FLOW FINANCING

Section 25.14. The Joint Legislative Transportation Oversight Committee (JLTOC) shall contract with a consultant to study the issue of cash balances in the State transportation funds and cash-flow financing of transportation programs. The provisions of G.S. 120-32.02 shall apply to any contract with a consultant.

The study shall include recommendations on all of the following:

(1) The appropriate level of cash balances in the Highway Fund and the Highway Trust Fund needed to operate and fund transportation programs efficiently.

(2) Amounts or proportions of future revenues, including federal funds, that could be used to accelerate highway construction.

(3) Appropriate safeguards to ensure that the Department of Transportation does not enter into contract obligations greater than can be covered from a combination of cash balances, anticipated future revenues, and other funding sources.

(4) Any organizational or work process changes in the Department of Transportation necessary to effectively use cash-flow financing. In determining these changes, the consultant should consider the preconstruction process, environmental permitting, right-of-way acquisition, planning and programming, budgeting, contract letting, and financial management.

(5) Any changes in the current cash-flow statutes or any other statutes required to allow the Department of Transportation to effectively use cash-flow financing.

(6) Any other matters that, by agreement between the consultant and the Chairs of JLTOC, are deemed necessary for inclusion in the study.

The JLTOC may consult with the Legislative Research Commission Transportation Finance Committee in designing this study.

The JLTOC may solicit input from the Department of Transportation in designing this study.

The study shall be completed before March 31, 2001, and a final report shall be submitted by the consultant to the chairs of the Senate Appropriations Subcommittee on Transportation, to the chairs of the House Appropriations Subcommittee on Transportation, and to the Fiscal Research Division.

The study shall be funded from funds available to the Joint Legislative Transportation Oversight Committee.

Requested by: Representatives Cole, Crawford, Easterling, Redwine, Senators Carter, Metcalf, Robinson, Gulley, Plyler, Perdue, Odom

DEPARTMENT OF TRANSPORTATION TO STUDY PROVIDING PASSENGER RAIL SERVICE TO WESTERN NORTH CAROLINA

Section 25.15. Of the funds appropriated for the 2000-2001 fiscal year for operating funds for passenger rail service for western North Carolina, the Department of Transportation shall use necessary funds to conduct a study of the feasibility of providing passenger rail service to western North Carolina.

The study shall update the Western North Carolina Rail Passenger Study reported in 1997.

The study shall include all of the following:

(1) A phased project timetable for the implementation of passenger service to western North Carolina.
(2) The cost of implementing each phase.
(3) Specific interim goals and performance measures to be used to determine the success in implementing this plan.

The report shall be submitted on or before March 1, 2001 to the chairs of the Senate Appropriations Subcommittee on Transportation, to the chairs of the House Appropriations Subcommittee on Transportation, and to the Fiscal Research Division.

Requested by: Representatives Cole, Crawford, Easterling, Redwine, Senators Gulley, Plyler, Perdue, Odom

SMALL URBAN CONSTRUCTION FUNDS

Section 25.16. Of the funds appropriated for the 2000-2001 fiscal year for small urban construction, Fund Code 5130, no more than fifty percent (50%) shall be obligated prior to December 31, 2000.

PART XXVI. SALARIES AND BENEFITS

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

GOVERNOR AND COUNCIL OF STATE

Section 26.(a) Effective July 1, 2000, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred thirteen thousand six hundred fifty-six dollars ($113,656)~~ one hundred eighteen thousand four hundred thirty dollars ($118,430) annually, payable monthly."

Section 26.(b) Section 28.(b) of S.L. 1999-237 reads as rewritten:

"Section 28.(b) The annual salaries for the members of the Council of State, payable monthly, for the ~~1999-2000~~ 2000-2001 fiscal year beginning July 1, ~~1999,~~ 2000, are:

Council of State	Annual Salary	
Lieutenant Governor	~~$100,310~~	$104,523
Attorney General	~~100,310~~	104,523
Secretary of State	~~100,310~~	104,523
State Treasurer	~~100,310~~	104,523
State Auditor	~~100,310~~	104,523
Superintendent of Public Instruction	~~100,310~~	104,523
Commissioner of Agriculture and Consumer Services	~~100,310~~	104,523
Insurance Commissioner	~~100,310~~	104,523
Labor Commissioner	~~100,310~~	104,523."

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

NONELECTED DEPARTMENT HEADS/SALARY INCREASES

Section 26.1. Section 28.1 of S.L. 1999-237 reads as rewritten:

"Section 28.1. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the ~~1999-2000 and~~ 2000-2001 fiscal ~~years~~ year are:

Nonelected Department Heads	Annual Salary	
Secretary of Administration	~~$98,003~~	$102,119
Secretary of Correction	~~98,003~~	102,119
Secretary of Crime Control and Public Safety	~~98,003~~	102,119
Secretary of Cultural Resources	~~98,003~~	102,119
Secretary of Commerce	~~98,003~~	102,119
Secretary of Environment and Natural Resources	~~98,003~~	102,119
Secretary of Health and Human Services	~~98,003~~	102,119
Secretary of Revenue	~~98,003~~	102,119
Secretary of Transportation	~~98,003~~	102,119."

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

Section 26.2. Section 28.2 of S.L. 1999-237 reads as rewritten:

"Section 28.2. The annual salaries, payable monthly, for the ~~1999-2000 and~~ 2000-2001 fiscal ~~years~~ year for the following executive branch officials are:

Executive Branch Officials	Annual Salary	
Chairman, Alcoholic Beverage Control Commission	~~$ 89,200~~	$ 92,946
State Controller	~~124,835~~	130,078
Commissioner of Motor Vehicles	~~89,200~~	92,946
Commissioner of Banks	~~100,310~~	104,523
Chairman, Employment Security Commission	~~124,677~~	129,913
State Personnel Director	~~98,003~~	102,119
Chairman, Parole Commission	~~81,450~~	84,871
Members of the Parole Commission	~~75,198~~	78,356
Chairman, Utilities Commission	~~111,713~~	116,405
Members of the Utilities Commission	~~100,310~~	104,523
Executive Director, Agency for Public Telecommunications	~~75,198~~	78,356
General Manager, Ports Railway Commission	~~67,903~~	70,755
Director, Museum of Art	~~91,401~~	95,240
Executive Director, North Carolina Housing Finance Agency	~~110,394~~	115,031
Executive Director, North Carolina Agricultural Finance Authority	~~86,823~~	90,470."

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

Section 26.3. Section 28.3 of S.L. 1999-237 reads as rewritten:

"Section 28.3.(a) The annual salaries, payable monthly, for specified judicial branch officials for the ~~1999-2000 and~~ 2000-2001 fiscal ~~years~~ year are:

Judicial Branch Officials	Annual Salary	
Chief Justice, Supreme Court	~~$113,656~~	$118,430
Associate Justice, Supreme Court	~~110,687~~	115,336
Chief Judge, Court of Appeals	~~107,919~~	112,452
Judge, Court of Appeals	~~106,075~~	110,530
Judge, Senior Regular Resident		

Superior Court	~~103,193~~	107,527
Judge, Superior Court	~~100,310~~	104,523
Chief Judge, District Court	~~91,086~~	94,912
Judge, District Court	~~88,204~~	91,909
~~District Attorney~~	~~92,931~~	
Administrative Officer of the Courts	~~103,193~~	107,527
Assistant Administrative Officer of the Courts	~~94,257~~	98,216
~~Public Defender~~	~~92,931~~	

Section 28.3.(a1) The salary increase for the Assistant Administrative Officer of the Courts shall be funded from funds appropriated to the Judicial Department.

Section 28.3.(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed ~~fifty-seven thousand one hundred sixty-five dollars ($57,165),~~ fifty-nine thousand five hundred sixty-six dollars ($59,566), and the minimum salary of any assistant district attorney or assistant public defender is at least ~~twenty-nine thousand one hundred eighty-four dollars ($29,184)~~ thirty thousand four hundred ten dollars ($30,410), effective July 1, ~~1999.~~ 2000.

Section 28.3.(c) The salaries in effect for fiscal year ~~1999-2000~~ 2000-2001 for permanent, full-time employees of the Judicial Department, except for those whose salaries are itemized in this Part, shall be increased by ~~three percent (3%),~~ four and two-tenths percent (4.2%), commencing July 1, ~~1999.~~ 2000.

Section 28.3.(d) The salaries in effect for fiscal year ~~1999-2000~~ 2000-2001 for all permanent, part-time employees of the Judicial Department shall be increased on and after July 1, ~~1999,~~ 2000, by pro rata amounts of ~~the three percent (3%).~~ four and two-tenths percent (4.2%)."

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom, Cooper

DISTRICT ATTORNEY AND PUBLIC DEFENDER SALARIES SET AT MIDPOINT AMOUNT BETWEEN SALARIES OF A SENIOR REGULAR SUPERIOR COURT JUDGE AND A CHIEF DISTRICT COURT JUDGE

Section 26.3A.(a) Effective July 1, 2000, G.S. 7A-65(a) reads as rewritten:

"(a) The annual salary ~~of district attorneys and full-time~~ of:

(1) District attorneys shall be the midpoint amount between the salary of a senior resident superior court judge and the salary of a chief district court judge, as provided by law.

(2) Full-time assistant district attorneys shall be as provided in the Current Operations Appropriations Act.

When traveling on official business, each district attorney and assistant district attorney is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

Section 26.3A.(b) G.S. 7A-465(b) reads as rewritten:

"(b) The public defender shall be an attorney licensed to practice law in North Carolina, and shall devote ~~his~~ full time to the duties of ~~his~~ the office. The annual salary of:

(1) Public defenders shall be the midpoint amount between the salary of a senior resident superior court judge and the salary of a chief district court judge, as provided by law.

(2) Full-time assistant public defenders shall be as provided in the Current Operations Appropriations Act.

In lieu of merit and other increment raises paid to regular State employees, a public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20 years of service. "Service" means service as a public defender, assistant public defender, justice or judge of the General Court of Justice, or clerk of superior court."

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

CLERK OF SUPERIOR COURT/SALARY INCREASES

Section 26.4. Effective July 1, 2000, G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary
Less than 100,000	~~$66,493~~ $69,286
100,000 to 149,999	~~74,690~~ 77,827
150,000 to 249,999	~~82,888~~ 86,369
250,000 and above	~~91,086.~~ 94,912.

The salary schedule in this subsection is intended to represent the following percentage of the salary of a chief district court judge:

Population	Annual Salary
Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES/ELIMINATE DEPUTY CLERK HIRING RATE

Section 26.5. Effective July 1, 2000, G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	~~$24,846~~ $25,890
Maximum	~~43,991~~ 45,839

Deputy Clerks	Annual Salary
Minimum	~~$19,865~~ $21,940
Maximum	~~33,886.~~ 35,309."

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

MAGISTRATES SALARY INCREASES

Section 26.6. Effective July 1, 2000, G.S. 7A-171.1 reads as rewritten:

"*§ 7A-171.1. Duty hours, salary, and travel expenses within county.*

(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary

Entry Rate	~~$25,205~~	$26,264
Step 1	~~27,735~~	28,900
Step 2	~~30,488~~	31,768
Step 3	~~33,491~~	34,898
Step 4	~~36,782~~	38,327
Step 5	~~40,399~~	42,096
Step 6	~~44,375.~~	46,239.

(2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

(3) Notwithstanding any other provision of this subsection, an individual who, when initially appointed as a full-time magistrate, is licensed to practice law in North Carolina, shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. An individual who, when initially appointed as a part-time magistrate, is licensed to practice law in North Carolina, shall be paid an annual salary based on that for Step 4 and determined according to the formula in subdivision (2) of this subsection. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. The salary of a full-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving a salary at a level lower than Step 4 shall be adjusted to Step 4 and, thereafter, shall advance in accordance with the Table's schedule. The salary of a part-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving an annual salary as determined by subdivision (2) of this subsection based on a salary level lower than Step 4 shall be

adjusted to a salary based on Step 4 in the Table and, thereafter, shall advance in accordance with the provision in subdivision (2) of this subsection.

(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	~~$19,866~~	$20,700
1 or more but less than 3 years of service	~~20,887~~	21,764
3 or more but less than 5 years of service	~~22,941.~~	23,905.

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a).

(2) The salaries of magistrates who on June 30, 1994, were paid at a salary level of five or more years of service shall be based on the rates set out in subsection (a) as follows:

Salary Level on June 30, 1994	Salary Level on July 1, 1994
5 or more but less than 7 years of service	Entry Rate
7 or more but less than 9 years of service	Step 1
9 or more but less than 11 years of service	Step 2
11 or more years of service	Step 3.

Thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

(3) The salaries of magistrates who are licensed to practice law in North Carolina shall be adjusted to the annual salary provided in the table in subsection (a) as Step 4, and, thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

(4) The salaries of "part-time magistrates" shall be set under the formula set out in subdivision (2) of subsection (a) but according to the rates set out in this subsection.

(a2) The Administrative Officer of the Courts shall provide magistrates with longevity pay at the same rates as are provided by the State to its employees subject to the State Personnel Act.

(b) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the State for travel expenses incurred on official business within the county in which the magistrate resides."

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

GENERAL ASSEMBLY PRINCIPAL CLERKS

Section 26.7. Effective July 1, 2000, G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~eighty-four thousand one hundred forty-seven dollars ($84,147)~~ eighty-seven thousand six hundred eighty-one dollars ($87,681) payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

SERGEANT-AT-ARMS AND READING CLERKS

Section 26.8. Effective July 1, 2000, G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~two hundred seventy-four dollars ($274.00)~~ two hundred eighty-six dollars ($286.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

LEGISLATIVE EMPLOYEES

Section 26.9. The Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 1999-2000 by four and two-tenths percent (4.2%). Nothing in this act limits any of the provisions of G.S. 120-32.

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

Section 26.10. The Director of the Budget shall transfer from the Reserve for Compensation Increase, created in this act for fiscal year 2000-2001, funds to the Community Colleges System Office necessary to provide an average annual salary increase of four and two-tenths percent (4.2%), including funds for the employer's retirement and social security contributions, commencing July 1,

2000, for all permanent full-time community college institutional personnel supported by State funds. The State Board of Community Colleges shall establish guidelines for providing their salary increases to community college institutional personnel. Salary funds shall be used to provide an average annual salary increase of four and two-tenths percent (4.2%) to all full-time employees and part-time employees on a pro rata basis.

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES

Section 26.11.(a) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increase, created in this act for fiscal year 2000-2001, to provide an annual average salary increase of four and two-tenths percent (4.2%), including funds for the employer's retirement and social security contributions, commencing July 1, 2000, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Governors or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate, and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

Section 26.11.(b) Section 28.12(b) of S.L.1999-237 reads as rewritten:

"Section 28.12.(b) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increase, created in this act for fiscal biennium 1999-2001, to provide an annual average salary increase of ~~seven and one-half percent (7.5%) in 1999-2000,~~ six and one-half percent (6.5%) in 2000-2001, including funds for the employer's retirement and social security contributions, commencing ~~July 1, 1999, and~~ July 1, 2000, for all teaching employees of the North Carolina School of Science and Mathematics supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section."

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

MOST STATE EMPLOYEES

Section 26.12.(a) The salaries in effect June 30, 2000, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund shall be increased, on or after July 1, 2000, unless otherwise provided by this act, pursuant to the Comprehensive Compensation System set forth in G.S. 126-7 and rules adopted by the State Personnel Commission as follows:

(1) Career growth recognition awards in the amount of two percent (2%); and

(2) For each employee, a cost-of-living adjustment in the amount of two and two-tenths percent (2.2%).

Notwithstanding G.S. 126-7(c)(4a), any permanent full-time State employee whose salary is set in accordance with the State Personnel Act and whose salary is at the top of the salary range or within two percent (2%) of the top of the salary range shall receive a one-time bonus of two percent (2%) less the career growth recognition award the employee receives. The employee shall receive the career growth bonus at the time the employee is eligible for the career growth recognition award, but not earlier than July 1, 2000.

Section 26.12.(b) Except as otherwise provided in this act, salaries in effect June 30, 2000, for permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased by four and two-tenths percent (4.2%) commencing July 1, 2000.

Section 26.12.(c) The salaries in effect June 30, 2000, for all permanent part-time State employees shall be increased on and after July 1, 2000, by pro rata amounts of the salary increases provided for permanent full-time employees covered under subsection (a) of this section.

Section 26.12.(d) The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase on and after July 1, 2000, in accordance with subsection (a), (b), or (c) of this section, including funds for the employer's retirement and social security contributions, of the permanent full-time and part-time employees of the agency.

Section 26.12.(e) Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by pro rata amounts of the four and two-tenths percent (4.2%) salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 2000.

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

COMPENSATION BONUS/STATE EMPLOYEES

Section 26.12A.(a) Any person:

(1) Whose salary is set: (i) pursuant to the State Personnel Act; or (ii) by or under this act, other than Sections 26, 26.1, 26.2, and 26.4, but not under Section 28.3.(a) of S.L. 1999-237, G.S. 7A-65(a)(1), G.S. 7A-465(b)(1), G.S. 7A-751, and G.S. 97-78(a) and

(2) Who was, on or before April 1, 2000, a permanent officer or permanent employee and who was in service on October 1, 2000, shall receive, payable for the last pay date in October 2000, a compensation bonus of five hundred dollars ($500.00) except that:

a. The compensation bonus for persons subject to Section 26.10 of this act shall be an average of five hundred dollars ($500.00) and shall be allocated in accordance with guidelines adopted by the State Board of Community Colleges, except for teaching faculty at the community colleges.

b. The compensation bonus for persons subject to Section 26.11 of this act shall be an average of five hundred dollars ($500.00) and shall be allocated to individuals according to the rules adopted by the Board of Governors, or the Board of Trustees of the North Carolina School of Science and Mathematics, except for teaching faculty of the UNC System as appropriate.

c. The guidelines and rules adopted under subsubdivisions a. and b. of this subdivision may cover employees of those institutions whose first day of employment for the 2000-2001 academic year came after January 1, 2000.

Section 26.12A.(b) For permanent part-time employees, the compensation bonus provided by this section shall be adjusted pro rata.

Section 26.12A.(c) The Director of the Budget shall transfer from the Reserve for Compensation Bonus provided by this act sufficient funds to implement this section.

Section 26.12A.(d) Notwithstanding G.S. 135-1(7a), the compensation bonus provided by this section is not compensation under Article 1 of Chapter 135 of the General Statutes, the Teachers' and State Employees' Retirement System. The compensation bonus awarded by this section shall not be administered under G.S. 126-7.

Section 26.12A.(e) Any State employee paid on the Teacher Salary Schedule or the School Based Administrator Salary Schedule shall not receive the compensation bonus authorized by this section.

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

ALL STATE-SUPPORTED PERSONNEL

Section 26.13.(a) Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund

shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

Section 26.13.(b) The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

Section 26.13.(c) The salary increases provided in this act are to be effective July 1, 2000, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to July 1, 2000.

Payroll checks issued to employees after July 1, 2000, which represent payment of services provided prior to July 1, 2000, shall not be eligible for salary increases provided for in this act. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

Section 26.13.(d) The Director of the Budget shall transfer from the Reserve for Compensation Increase in this act for fiscal year 2000-2001 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

Section 26.13.(e) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

SALARY ADJUSTMENT FUND/STUDY

Section 26.14.(a) Any remaining appropriations for legislative salary increases not required for that purpose may be used to supplement the Salary Adjustment Fund. These funds shall first be used to provide reclassifications of those positions already approved by the Office of State Personnel. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations prior to the allocation of salary adjustment funds for any State agency.

Section 26.14.(b) The Office of State Personnel shall report to the Legislative Research Commission and the Joint Legislative Commission on Governmental Operations by December 1, 2000, on the adequacy of the Salary Adjustment Fund to fund position reallocations, salary range revisions, and in-range salary adjustments. The Office of State Personnel shall include in its report the following:

(1) A comprehensive listing of State agency requests for specific salary adjustment requests authorized by the Office of State Personnel as of November 1, 2000;

(2) A complete funding and expenditure history of the Salary Adjustment Fund;

(3) A year-by-year comparison of funded and unfunded salary adjustment requests; and
(4) Specific recommendations as to a systematic method for identifying and funding salary adjustment issues in State agencies.

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

AGENCY TEACHER/PRINCIPAL SUPPLEMENT

Section 26.15. The Director of the Budget shall transfer from the Reserve for Compensation Increase in this act for fiscal year 2000-2001 funds necessary to provide statewide teacher supplements for State agency teachers who are paid on the teacher salary schedule as set out in Section 8.10 of this act based on five percent (5%) of their salaries.

The Director of the Budget shall transfer from the Reserve for Compensation Increase in this act for fiscal year 2000-2001 funds necessary to provide statewide supplements for State agency principals and assistant principals who possess the title of principal or assistant principal who perform the requisite duties of a principal or assistant principal, based on five percent (5%) of their salaries. The employing agency or department and the Office of State Budget and Management shall jointly determine the personnel covered by this paragraph.

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

DEPUTY INDUSTRIAL COMMISSIONER PAY EQUITY

Section 26.16. The Office of State Personnel shall conduct a salary equity study of the Deputy Industrial Commissioner class in the North Carolina Industrial Commission under the Department of Commerce. The study's methodology shall incorporate the necessary criteria and standards for evaluating possible salary inequities among the authorized positions under the Deputy Industrial Commissioner classification. Based upon the findings of the salary equity study, the Office of State Budget and Management may transfer to the North Carolina Industrial Commission an amount up to thirty-five thousand dollars ($35,000) from the Reserve for Compensation Increase to address possible salary inequities in the Deputy Industrial Commissioner classification if inequities are found to exist by the Office of State Personnel study.

Requested by: Representatives Redwine, Easterling, Baddour, Senators Plyler, Perdue, Odom, Warren, Kerr

ALLOW ADDITIONAL RETROACTIVE MEMBERSHIP IN THE NORTH CAROLINA FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND

Section 26.17.(a) G.S. 58-86-45(a) reads as rewritten:

"(a) Any fireman or rescue squad worker who is now eligible and is a member of a fire department or rescue squad chartered by the

State of North Carolina and who has not previously elected to become a member may make application through the board of trustees for membership in the fund on or before March 31, ~~1987.~~ 2001. The person shall make a lump sum payment of ~~five dollars ($5.00)~~ ten dollars ($10.00) per month retroactively to the time he first became eligible to become a member, plus interest at an annual rate of eight percent (8%), for each year of his retroactive payments. Upon making the lump sum payment, the person shall be given credit for all prior service in the same manner as if he had made application for membership at the time he first became eligible. Any member who made application for membership subsequent to the time he was first eligible and did not receive credit for prior service may receive credit for this prior service upon lump sum payment of ~~five dollars ($5.00)~~ ten dollars ($10.00) per month retroactively to the time he first became eligible, plus interest at an annual rate of eight percent (8%), for each year of his retroactive payments. Upon making this lump sum payment, the date of membership shall be the same as if he had made application for membership at the time he was first eligible. Any fireman or rescue squad worker who has applied for prior service under this subsection shall have until ~~October 1, 1989,~~ June 30, 2001, to pay for this prior service and, if this payment is not made by ~~October 1, 1989,~~ June 30, 2001, he shall not receive credit for this service, except as provided in subsection (a1) of this section."

Section 26.17.(b) This section becomes effective October 1, 2000.

Requested by: Representatives Redwine, Easterling, Michaux, Baddour, Dedmon, Senators Plyler, Perdue, Odom, Warren, Kerr

INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND

Section 26.18. G.S. 58-86-55 reads as rewritten:

"§ *58-86-55. Monthly pensions upon retirement.*

Any member who has served 20 years as an 'eligible fireman' or 'eligible rescue squad worker' in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of ~~one hundred forty-six dollars ($146.00)~~ one hundred fifty-one dollars ($151.00) per month. Any retired fireman receiving a pension shall, effective July 1, ~~1998,~~ 2000, receive a pension of ~~one hundred forty-six dollars ($146.00)~~ one hundred fifty-one dollars ($151.00) per month.

Members shall pay ten dollars ($10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No 'eligible rescue squad member' shall receive a pension prior to July 1, 1983. No member shall be entitled to a pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.

A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred forty-six dollars ($146.00)~~ one hundred fifty-one dollars ($151.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ten dollars ($10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application and annually thereafter.

A member who, because his residence is annexed by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, and because of such annexation is unable to perform as a fireman of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law."

Requested by: Representatives Redwine, Easterling, Senators Perdue, Plyler, Odom, Rand

STATE EMPLOYEES' RESERVE

Section 26.18A.(a) The General Assembly finds that the Teachers' and State Employees' Comprehensive Major Medical Plan

is a significant employment benefit for teachers and State employees. The General Assembly further finds that recent studies show anticipated substantial deficits in the Plan in future years if benefit levels remain the same. The General Assembly further finds that maintaining the fiscal integrity and benefit level of the Plan are a high priority. The fiscally sound approach to addressing anticipated future deficits is to maintain a reserve so as to reduce the likelihood of significant benefit cuts or premium charges in later years.

Section 26.18A.(b) There is established in the Office of the State Treasurer the State Employees' Reserve, to be used to be appropriated to maintain the fiscal integrity of the Teachers' and State Employees' Comprehensive Major Medical Plan and to provide benefits enhancements to State employees and retirees. There is appropriated to the State Employees' Reserve in the Office of the State Treasurer for fiscal year 2000-2001 the sum of forty-eight million dollars ($48,000,000) from the General Fund and the sum of three million seven hundred thousand dollars ($3,700,000) from the Highway Fund.

Section 26.18A.(c) Funds in the State Employees' Reserve shall first be appropriated to offset deficits in the Teachers' and State Employees' Comprehensive Major Medical Plan. Any remaining funds shall be appropriated for compensation increases and enhancements in State employee salaries and retirees' benefits.

Requested by: Representatives Redwine, Easterling, Senators Perdue, Plyler, Odom

SET CONTRIBUTION RATES

Section 26.19.(a) Section 28.22(c) of S.L. 1999-237 reads as rewritten:

"Section 28.22.(c) Effective July 1, 2000, the State's employer contribution rates budgeted for retirement and ~~related~~ specified benefits as a percentage of covered salaries for the 2000-2001 fiscal year are (i) ~~ten and eighty-three hundredths percent (10.83%)~~ seven and thirteen hundredths percent (7.13%) - Teachers and State Employees; (ii) ~~fifteen and eighty-three hundredths percent (15.83%)~~ twelve and thirteen hundredths percent (12.13%) - State Law Enforcement Officers; (iii) ~~nine and thirty-six~~ eight and sixty-four hundredths percent ~~(9.36%)~~ (8.64%) - University Employees' Optional Retirement Program; (iv) ~~twenty and fifty-eight hundredths percent (20.58%)~~ nineteen and eighty-six hundredths percent (19.86%) - Consolidated Judicial Retirement System; and (v) ~~twenty-four and seventy-hundredths percent (24.70%)~~ twenty-three and ninety-eight hundredths percent (23.98%) - Legislative Retirement System. Each of the foregoing contribution rates includes ~~two percent (2%)~~ one and twenty-eight hundredths percent (1.28%) for hospital and medical benefits. The rate for State Law Enforcement Officers includes five percent (5%) for the Supplemental Retirement Income Plan. The rates for Teachers and State Employees, State Law Enforcement Officers, and for the University Employees' Optional

Retirement Program include fifty-two hundredths percent (0.52%) for the Disability Income Plan."

Section 26.19(a1). Notwithstanding any other provision of law, the Board of Trustees of the Teachers' and State Employees' Retirement System shall adopt such assumptions as necessary to put into effect the employer contribution rates as enacted by this section, but not exceeding an increase in the recognition of the value of assets from the current to seventy-seven percent (77%) of market value.

Section 26.19(b). The General Assembly directs the Board of Trustees of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund to adopt a fixed amortization period of nine years for the purposes of the unfunded accrued liability for the Pension Fund beginning with the valuation for June 30, 1999.

Section 26.19(c). This section becomes effective July 1, 2000.

Requested by: Representatives Redwine, Easterling, Michaux, Senators Plyler, Perdue, Odom, Phillips

ENHANCE THE BENEFITS PAYABLE FROM THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

Section 26.20.(a) G.S. 135-5(b17) reads as rewritten:

"(b17) Service Retirement Allowance of Members Retiring on or After July 1, ~~1997.~~ 1997, but Before July 1, 2000. -- Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1997, but before July 1, 2000, a member shall receive the following service retirement allowance.

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty hundredths percent (1.80%) of his average final compensation, multiplied by the number of years of his creditable service.

b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 135-5(b17)(1)a, reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his

retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or

2. The service retirement allowance as computed under G.S. 135-5(b17)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of membership service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty hundredths percent (1.80%) of his average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after this 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 135-5(b17)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:

1. The service retirement allowance as computed under G.S. 135-5(b17)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 135-5(b17)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or

3. If the member's creditable service commenced prior to July 1, 1994, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 135-5(b17)(2)b.

d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1963, shall not receive less than the benefit provided by G.S. 135-5(b)."

Section 26.20.(b) G.S. 135-5 is amended by adding a new subsection to read:

"(b18) Service Retirement Allowance of Members Retiring on or After July 1, 2000. -- Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2000, a member shall receive the following service retirement allowance.

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-one hundredths percent (1.81%) of his average final compensation, multiplied by the number of years of his creditable service.

b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 135-5(b18)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or

2. The service retirement allowance as computed under G.S. 135-5(b18)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of membership service or after the completion of 30 years of creditable service or on or after his 60th

birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-one hundredths percent (1.81%) of his average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 135-5(b18)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:

1. The service retirement allowance as computed under G.S. 135-5(b18)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 135-5(b18)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or

3. If the member's creditable service commenced prior to July 1, 1994, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 135-5(b18)(2)b.

d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1963, shall not receive less than the benefit provided by G.S. 135-5(b)."

Section 26.20.(c) G.S. 135-5 is amended by adding two new subsections to read:

"(ggg) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 2000. -- From and after July 1, 2000, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 2000, shall be increased by six-tenths percent (0.6%) of

the allowance payable on June 1, 2000. This allowance shall be calculated on the allowance payable and in effect on June 30, 2000, so as not to be compounded on any other increase granted by act of the 1999 General Assembly, 2000 Regular Session.

(hhh) From and after July 1, 2000, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1999, shall be increased by three and six-tenths percent (3.6%) of the allowance payable on June 1, 2000, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2000, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1999, but before June 30, 2000, shall be increased by a prorated amount of three and six-tenths percent (3.6%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1999, and June 30, 2000."

Section 26.20.(d) G.S. 135-5(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. -- Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option 2 of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that the following conditions apply:

(1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or

b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with ~~G.S. 135-5(b17)(1)b. or G.S. 135-5(b17)(2)c.,~~ G.S. 135-5(b18)(1)b. or G.S. 135-5(b18)(2)c., notwithstanding the requirement of obtaining age 50.

(2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who was living at the time of his death.

(3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection to apply.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (1) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase. The term "in service" as used in this subsection includes a member in receipt of a

benefit under the Disability Income Plan as provided in Article 6 of this Chapter."

Section 26.20.(e) G.S. 135-65 is amended by adding a new subsection to read:

"(u) From and after July 1, 2000, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1999, shall be increased by two and six-tenths percent (2.6%) of the allowance payable on June 1, 2000. Furthermore, from and after July 1, 2000, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1999, but before June 30, 2000, shall be increased by a prorated amount of two and six-tenths percent (2.6%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1999, and June 30, 2000."

Section 26.20.(f) G.S. 120-4.22A is amended by adding a new subsection to read:

"(o) In accordance with subsection (a) of this section, from and after July 1, 2000, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2000, shall be increased by three and six-tenths percent (3.6%) of the allowance payable on June 1, 2000. Furthermore, from and after July 1, 2000, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2000, but before June 30, 2000, shall be increased by a prorated amount of three and six-tenths percent (3.6%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 2000, and June 30, 2000."

Section 26.20.(g) G.S. 128-27(b17) reads as rewritten:

"(b17) Service Retirement Allowance of Member Retiring on or After July 1, ~~1998.~~ 1998, but Before July 1, 2000. -- Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1998, but before July 1, 2000, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and seventy-seven hundredths percent (1.77%) of his average final compensation, multiplied by the number of years of his creditable service.

b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30

years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 128-27(b17)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or
2. The service retirement allowance as computed under G.S. 128-27(b17)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and seventy-seven hundredths percent (1.77%) of average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b17)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:

1. The service retirement allowance as computed under G.S. 128-27(b17)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month

coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b17)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b17)(2)b.

d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

Section 26.20.(h) G.S. 128-27 is amended by adding a new subsection to read:

"(b18) Service Retirement Allowance of Member Retiring on or After July 1, 2000. -- Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2000, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and seventy-eight hundredths percent (1.78%) of his average final compensation, multiplied by the number of years of his creditable service.

b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 128-27(b18)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or
2. The service retirement allowance as computed under G.S. 128-27(b18)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and seventy-eight hundredths percent (1.78%) of average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b18)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:

1. The service retirement allowance as computed under G.S. 128-27(b18)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b18)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or

3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b18)(2)b.

d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1,

1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

Section 26.20.(i) G.S. 128-27(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. -- Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option two of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that all three of the following conditions apply:

(1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or

b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with ~~G.S. 128-27(b17)(1)b. or G.S. 128-27(b17)(2)c.,~~ G.S. 128-27(b18)(1)b. or G.S. 128-27(b18)(2)c., notwithstanding the requirement of obtaining age 50.

(2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who is living at the time of his death.

(3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection apply.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (l) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase."

Section 26.20.(j) G.S. 128-27 is amended by adding two new subsections to read:

"(xx) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 2000. -- From and after July 1, 2000, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 2000, shall be increased by six-tenths of one percent (0.6%) of the allowance payable on June 1, 2000. This allowance shall be calculated on the allowance payable and in effect on June 30, 2000, so as not to be compounded on any other increase payable under subsection (k) of this section or otherwise granted by act of the 1999 General Assembly, 2000 Regular Session.

(yy) From and after July 1, 2000, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1999, shall be increased by three and eight-tenths percent (3.8%) of the allowance payable on June 1, 2000, in accordance with

subsection (k) of this section. Furthermore, from and after July 1, 2000, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1999, but before June 30, 2000, shall be increased by a prorated amount of three and eight-tenths percent (3.8%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1999, and June 30, 2000."

Requested by: Representatives Redwine, Easterling, Nesbitt, Senators Plyler, Perdue, Odom

GRACE PERIOD FOR FIRE DISTRICTS TO FILE CERTIFICATES OF ELIGIBILITY FOR FIREMEN'S RELIEF FUND MONEYS

Section 26.21.(a) G.S. 58-84-45 is repealed.

Section 26.21.(b) Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-84-46. Certification to Commissioner.*

On or before October 31 of each year the clerk of each fire district that has a local board of trustees under G.S. 58-84-30 shall file a certificate of eligibility with the Commissioner. The certificate shall contain information prescribed by administrative rule adopted by the Commissioner. If the certificate is not filed with the Commissioner on or before January 31 in the ensuing year:

(1) The fire district that failed to file the certificate shall forfeit the payment next due to be paid to its board of trustees.

(2) The Commissioner shall pay over that amount to the treasurer of the North Carolina State Firemen's Association.

(3) That amount shall constitute a part of the Firemen's Relief Fund."

Section 26.21.(c) This section is effective July 1, 2000, and applies retroactively to October 31, 1998.

Requested by: Representatives Redwine, Cole, Easterling, Senators Plyler, Perdue, Odom, Warren, Kerr

INCLUDE FULL-TIME COUNTY FIRE MARSHALS IN THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND

Section 26.22. G.S. 58-86-25 reads as rewritten:

"*§ 58-86-25. 'Eligible firemen' defined; determination and certification of volunteers meeting qualifications.*

'Eligible firemen' shall mean all firemen of the State of North Carolina or any political subdivision thereof, including those performing such functions in the protection of life and property through fire fighting within a county or city governmental unit and so certified to the Commissioner of Insurance by the governing body thereof, and who belong to a bona fide fire department which, as determined by the Commissioner, is classified as not less than class '9' or class 'A' and 'AA' departments in accordance with rating methods, schedules, classifications, underwriting rules, bylaws or regulations effective or applied with respect to the establishment of

rates or premiums used or charged pursuant to Articles 36 or 40 of this Chapter or by such other reasonable methods as the Commissioner may determine, and which operates fire apparatus and equipment of the value of five thousand dollars ($5,000) or more, and said fire department holds drills and meetings not less than four hours monthly and said firemen attend at least 36 hours of all drills and meetings in each calendar year. 'Eligible firemen' shall also mean an employee of a county whose sole duty is to act as fire marshal of the county, provided the board of county commissioners of that county certifies the fire marshal's attendance at no less than 36 hours of all drills and meetings in each calendar year. 'Eligible firemen' shall also mean those persons meeting the other qualifications of this section, not exceeding 25 volunteer firemen plus one additional volunteer fireman per 100 population in the area served by their respective departments. Each department shall annually determine and report the names of those firemen meeting the eligibility qualifications to its respective governing body, which upon determination of the validity and accuracy of the qualification shall promptly certify the list to the board. For the purposes of the preceding sentence, the governing body of a fire department operated: by a county is the county board of commissioners; by a city is the city council; by a sanitary district is the sanitary district board; by a corporation, whether profit or nonprofit, is the corporation's board of directors; and by any other entity is that group designated by the board."

PART XXVII. GENERAL CAPITAL APPROPRIATIONS/PROVISIONS

Requested by: Representatives Easterling, Redwine, Wright, Senators Plyler, Perdue, Odom

CAPITAL APPROPRIATIONS/GENERAL FUND

Section 27. There is appropriated from the General Fund for the 2000-2001 fiscal year the following amount for capital improvements:

Department of Environment and Natural Resources Water Resources Projects	$13,356,000
Department of Crime Control and Public Safety National Guard Armory at Charlotte	$ 1,618,172
TOTAL CAPITAL APPROPRIATION	$14,974,172

Requested by: Representatives Easterling, Redwine, Smith, Wright, Senators Plyler, Perdue, Odom

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

Section 27.1.(a) Where the actual costs are different from the estimated costs in the Water Resources Development Plan for the 2000-2001 fiscal year, the Department may adjust the allocations

among projects as needed. If any projects in the Plan are delayed and the budgeted State funds cannot be used during the 2000-2001 fiscal year, or if the projects in the Plan are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Corps of Engineers project feasibility studies.
(2) Corps of Engineers projects whose schedules have advanced and require State matching funds in the 2000-2001 fiscal year.
(3) State-local water resources development projects. Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2001-2002 fiscal year.

Section 27.1.(b) The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects that receive funding.
(2) The estimated cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

Section 27.1.(c) Notwithstanding G.S. 143-23, if additional federal funds that require a State match are received for water resources projects or for beach renourishment projects for the 2000-2001 fiscal year, the Director of the Budget may, after consultation with the Joint Legislative Commission on Governmental Operations, transfer funds from General Fund appropriations to match the federal funds.

Requested by: Representatives Easterling, Redwine, Wright, Senators Plyler, Perdue, Odom

EXPENDITURE OF FUNDS FROM RESERVE FOR REPAIRS AND RENOVATIONS

Section 27.2. Of the funds in the Reserve for Repairs and Renovations for the 2000-2001 fiscal year, forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143-15.3A, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty-four percent (54%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143-15.3A.

Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall submit to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office, for their review, the proposed allocations of these funds. Subsequent changes in the proposed allocations shall be reported prior to expenditure to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office.

PART XXVIII. MISCELLANEOUS PROVISIONS

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

EXECUTIVE BUDGET ACT APPLIES

Section 28. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

COMMITTEE REPORT

Section 28.1.(a) The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated June 30, 2000, which was distributed in the Senate and House of Representatives used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

Section 28.1.(b) The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2000-2001 fiscal biennium is a line item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The General Assembly amended the requested adjustments to the budgets submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission, in accordance with the

steps that follow and the line item detail in the budget enacted by the General Assembly may be derived accordingly:

(1) The base budget was adjusted in accordance with the base budget cuts and additions that were set out in the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets.

(2) Transfers of funds supporting programs were made in accordance with the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets.

Section 28.1.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with the special provisions in this act and in accordance with other appropriate legislation.

In the event that there is a conflict between the line item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

Section 28.1.(d) If House Bill 1854 of the 1999 General Assembly does not become law or if House Bill 1854 of the 1999 General Assembly becomes law but does not increase receipts by at least $41,020,000, the Director of the Budget shall examine and survey the progress of the collection of all General Fund revenues and determine whether and to what extent General Fund revenues are adequate to support General Fund appropriations for the 2000-2001 fiscal year. If the Director of the Budget finds that General Fund revenues are not adequate to support all General Fund appropriations, the Director of the Budget shall reduce appropriations as provided in G.S. 143-25.

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

MOST TEXT APPLIES ONLY TO 2000-2001

Section 28.2. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2000-2001 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2000-2001 fiscal year.

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

EFFECT OF HEADINGS

Section 28.3. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a Part.

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

SEVERABILITY CLAUSE

Section 28.4. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Requested by: Representatives Easterling, Redwine, Senators Plyler, Perdue, Odom

EFFECTIVE DATE

Section 28.5. Except as otherwise provided, this act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law upon approval of the Governor at 9:30 p.m. on the 30th day of June, 2000.

S.B. 328 **SESSION LAW 2000-68**

AN ACT TO INCREASE THE FEE PAYABLE TO THE REGISTER OF DEEDS FOR THE FILING OF RIGHT-OF-WAY PLANS BY THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-19.4 reads as rewritten:

"*§ 136-19.4. Registration of right-of-way plans.*

(a) A copy of the cover sheet and plan and profile sheets of the final right-of-way plans for all Department of Transportation projects, on those projects for which plans are prepared, under which right-of-way or other interest in real property is acquired or access is controlled shall be certified by the Department of Transportation to the register of deeds of the county or counties within which the project is located. The Department shall certify said plan sheets to the register of deeds within two weeks from their formal approval by the Board of Transportation.

(b) The copy of the plans certified to the register of deeds shall consist of a Xerox, photographic, or other permanent copy, except for plans electronically transmitted pursuant to subsection (b1) of this section, and shall measure approximately 17 inches by 11 inches including no less than one and one-half inches binding space on the left-hand side.

(b1) With the approval of the county in which the right-of-way plans are to be filed, the Department may transmit the plans electronically.

(c) Notwithstanding any other provision in the law, upon receipt of said original certified copy of the right-of-way plans, the register of deeds shall record said right-of-way plans and place the same in a book maintained for that purpose, and the register of deeds shall maintain a cross-index to said right-of-way plans by number of road affected, if any, and by identification number. No probate before the clerk of the superior court shall be required.

(d) If after the approval of said final right-of-way plans the Board of Transportation shall by resolution alter or amend said right-of-way or control of access, the Department of Transportation, within two weeks from the adoption by the Board of Transportation of said alteration or amendment, shall certify to the register of deeds in the county or counties within which the project is located a copy of the amended plan and profile sheets approved by the Board of Transportation and the register of deeds shall remove the original plan sheets and record the amended plan sheets in lieu thereof.

(e) The register of deeds in each county shall collect a fee from the Department of Transportation of twenty-one dollars ($21.00) for the first page and five dollars ($5.00) for each additional page for each original or amended plan and profile sheet recorded."

Section 2. This act becomes effective January 1, 2001.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law upon approval of the Governor at 9:55 p.m. on the 30th day of June, 2000.

H.B. 1539 **SESSION LAW 2000-69**

AN ACT TO DESIGNATE THE STATE BOARD OF EDUCATION AS THE STATE EDUCATION AGENCY RESPONSIBLE FOR ADMINISTERING THE QUALIFIED ZONE ACADEMY BOND PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. Chapter 115C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 34B.

"Qualified Zone Academy Bonds.

"*§ 115C-489.5. Qualified zone academy bonds; findings.*

The General Assembly finds:

(a) Section 226 of the Taxpayer Relief Act of 1997, as codified at 26 U.S.C. § 1397E, provides funds for school improvements through taxable qualified zone academy bonds. Ninety-five percent (95%) or more of the proceeds of a qualified zone academy bond issue must be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency.

(b) Partnerships between private entities and local schools are promoted through the use of qualified zone academy bonds. Issuers must certify that they have received written commitments from one or more private entities to make qualified contributions valued at ten percent (10%) of the proceeds of the issue.

(c) Eligible taxpayers may receive federal tax credits for holding the qualified zone academy bonds. It is intended that the qualified zone academy bonds be sold at par value so that the tax credits received are instead of interest that otherwise would have been paid on the bonds. Therefore, issuers of qualified zone academy bonds are obligated to

repay the principal amount of the qualified zone academy bonds but need not make interest payments.

(d) Applicable federal law limits the amount of qualified zone academy bonds that may be issued in North Carolina in a calendar year.

"*§ 115C-489.6. Administration; consultation; issuance of bonds.*

(a) State Board of Education to Administer Program. -- The State Board of Education is designated the State education agency responsible for administering the qualified zone academy bond program in North Carolina for the purposes of 26 U.S.C. § 1397E. The State Board of Education shall perform all activities required to implement and carry out the qualified zone activity bond program in North Carolina. Those activities include:

(1) Defining those areas and schools that are eligible under federal law to participate in the qualified zone academy bond program in North Carolina.

(2) Designing an application process under which proposals may be solicited from qualified zone academies.

(3) Determining the eligibility of an applicant to be a participating qualified zone academy.

(4) Awarding the State's allocation of total funds among selected applicants and establishing conditions upon the usage of the allocation. These conditions must include:

a. Requiring that the bond proceeds be used only for rehabilitating or repairing the public school facility in which the qualified zone academy is located, which may include (i) wiring and other infrastructure improvements related to providing technology and (ii) equipment related to the rehabilitation or repair, but not personal computers or similar technology equipment.

b. Conditions designed to assure that the allocation is used in a timely manner.

(5) Confirming that the terms of any qualified zone academy bonds issued in accordance with this program are consistent with the terms of the federal program.

(b) Assistance. -- The Department of Public Instruction shall provide the State Board of Education any support it requires in carrying out this section.

(c) Consultation. -- In reviewing applications and awarding allocations, the State Board of Education shall consult with the Local Government Commission to determine whether a prospective issuer of qualified zone academy bonds is able to issue or incur marketable obligations.

(d) Issuance of Bonds. -- Any bonds designated as qualified zone academy bonds may be issued pursuant to the applicable provisions of and in compliance with the Local Government Bond Act, Article 4 of Chapter 159 of the General Statutes, or pursuant to the applicable provisions of and in compliance with G.S. 160A-20, to the extent authorized by G.S. 153A-158.1. As provided in G.S. 159-123(b),

bonds designated as qualified zone academy bonds to be issued pursuant to the Local Government Bond Act may be sold by the Local Government Commission at private sale."

Section 2. G.S. 159-123(b) reads as rewritten:

"(b) The following classes of bonds may be sold at private sale:

(1) Bonds that a State or federal agency has previously agreed to purchase.

(2) Any bonds for which no legal bid is received within the time allowed for submission of bids.

(3) Revenue bonds, including any refunding bonds issued pursuant to G.S. 159-84, and special obligation bonds issued pursuant to Chapter 159I of the General Statutes.

(4) Refunding bonds issued pursuant to G.S. 159-78.

(5) Refunding bonds issued pursuant to G.S. 159-72 if the Local Government Commission determines that a private sale is in the best interest of the issuing unit.

(6) Bonds designated as qualified zone academy bonds pursuant to G.S. 115C-489.6, if the Local Government Commission determines that a private sale is in the best interest of the issuing unit."

Section 3. G.S. 150B-21.1 is amended by adding a new subsection to read:

"(a7) Notwithstanding the provisions of subdivision (a)(2) of this section, an agency may adopt a temporary rule to implement the provisions of any of the following acts until all rules necessary to implement the provisions of the act have become effective as either temporary or permanent rules:

(1) Reserved.

(2) Article 34B of Chapter 115C of the General Statutes."

Section 4. Interpretation of Act. (a) Additional Method. This act provides an additional and alternative method for the doing of the things it authorizes and is as supplemental and additional to powers conferred by other laws. Except as otherwise expressly provided, it does not derogate any powers now existing.

Section 4.(b) Statutory References. References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

Section 4.(c) Liberal Construction. This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

Section 4.(d) Severability. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

Section 5. G.S. 150B-21.1(a7)(2), as enacted by Section 3 of this act, is repealed effective July 1, 2003.

Section 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law upon approval of the Governor at 9:56 p.m. on the 30th day of June, 2000.

H.B. 1602 **SESSION LAW 2000-70**

AN ACT TO CLARIFY THAT STORMWATER UTILITY FEES MAY BE USED TO FUND ALL COSTS OF STORMWATER MANAGEMENT PROGRAMS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-274 reads as rewritten:

"*§ 153A-274. Public enterprise defined.*

As used in this Article, 'public enterprise' includes:

(1) Water supply and distribution ~~systems,~~ systems.

(2) Wastewater collection, treatment, and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or ~~systems,~~ systems.

(3) Solid waste collection and disposal systems and ~~facilities,~~ facilities.

(4) ~~Airports,~~ Airports.

(5) Off-street parking ~~facilities,~~ facilities.

(6) Public transportation ~~systems,~~ systems.

(7) ~~Structural~~ Stormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and structural and natural stormwater and drainage systems of all types."

Section 2. G.S. 153A-277 reads as rewritten:

"*§ 153A-277. Authority to fix and enforce rates.*

(a) A county may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished by a public enterprise. Schedules of rents, rates, fees, charges, and penalties may vary for the same class of service in different areas of the county and may vary according to classes of service, and different schedules may be adopted for services provided outside of the county. A county may include a fee relating to subsurface discharge wastewater management systems and services on the property tax bill for the real property where the system for which the fee is imposed is located.

(a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for stormwater management programs and structural and natural stormwater and drainage systems under this section, the board of commissioners shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The

hearing may be held concurrently with the public hearing on the proposed budget ordinance.

(2) The fees established under this subsection must be made applicable throughout the area of the county outside municipalities. Schedules of rates, fees, charges, and penalties for providing stormwater management programs and structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection may not exceed the county's cost of providing a stormwater management program and a structural and natural stormwater and drainage system. The county's cost of providing a stormwater management program and a structural and natural stormwater and drainage system includes any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations, and rules.

(3) No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate stormwater management programs or separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a ~~single~~ stormwater management program and structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing stormwater management programs and structural and natural stormwater and drainage system services.

(b) A county may collect delinquent accounts by any remedy provided by law for collecting and enforcing private debts, and may specify by ordinance the order in which partial payments are to be applied among the various enterprise services covered by a bill for the services. A county may also discontinue service to a customer whose account remains delinquent for more than 10 days. If a delinquent customer is not the owner of the premises to which the services are delivered, the payment of the delinquent account may not be required before providing services at the request of a new and different tenant

or occupant of the premises. If water or sewer services are discontinued for delinquency, it is unlawful for a person other than a duly authorized agent or employee of the county to reconnect the premises to the water or sewer system.

(c) Rents, rates, fees, charges, and penalties for enterprisory services are in no case a lien upon the property or premises served and, except as provided in subsection (d) of this section, are legal obligations of the person contracting for them, provided that no contract shall be necessary in the case of structural and natural stormwater and drainage systems.

(d) Rents, rates, fees, charges, and penalties for enterprisory services are legal obligations of the owner of the property or premises served when:

(1) The property or premises is leased or rented to more than one tenant and services rendered to more than one tenant are measured by the same meter; or

(2) Charges made for use of a sewerage system are billed separately from charges made for the use of a water distribution system."

Section 3. G.S. 160A-311 reads as rewritten:

"*§ 160A-311. Public enterprise defined.*

As used in this Article, the term 'public enterprise' includes:

(1) Electric power generation, transmission, and distribution ~~systems;~~ systems.

(2) Water supply and distribution ~~systems;~~ systems.

(3) Wastewater collection, treatment, and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or ~~systems;~~ systems.

(4) Gas production, storage, transmission, and distribution systems, where systems shall also include the purchase ~~and/or~~ or lease of natural gas fields and natural gas reserves, the purchase of natural gas supplies, and the surveying, drilling and any other activities related to the exploration for natural gas, whether within the State or ~~without;~~ without.

(5) Public transportation ~~systems;~~ systems.

(6) Solid waste collection and disposal systems and ~~facilities;~~ facilities.

(7) Cable television ~~systems;~~ systems.

(8) Off-street parking facilities and ~~systems;~~ systems.

(9) ~~Airports;~~ Airports.

(10) ~~Structural~~ Stormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and structural and natural stormwater and drainage systems of all types."

Section 4. G.S. 160A-314 reads as rewritten:

"*§ 160A-314. Authority to fix and enforce rates.*

(a) A city may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services

furnished by any public enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to classes of service, and different schedules may be adopted for services provided outside the corporate limits of the city.

(a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for stormwater management programs and structural and natural stormwater and drainage systems under this section, the city council shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

(2) The fees established under this subsection must be made applicable throughout the area of the city. Schedules of rates, fees, charges, and penalties for providing stormwater management programs and structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection may not exceed the city's cost of providing a stormwater management program and a structural and natural stormwater and drainage system. The city's cost of providing a stormwater management program and a structural and natural stormwater and drainage system includes any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations, and rules.

(3) No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate stormwater management programs or separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a ~~single~~ stormwater management program and structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local

government shall include a regional authority providing stormwater management programs and structural and natural stormwater and drainage system services.

(a2) A fee for the use of a disposal facility provided by the city may vary based on the amount, characteristics, and form of recyclable materials present in solid waste brought to the facility for disposal. This section does not prohibit a city from providing aid to low-income persons to pay all or part of the cost of solid waste management services for those persons.

(b) A city shall have power to collect delinquent accounts by any remedy provided by law for collecting and enforcing private debts, and may specify by ordinance the order in which partial payments are to be applied among the various enterprise services covered by a bill for the services. A city may also discontinue service to any customer whose account remains delinquent for more than 10 days. When service is discontinued for delinquency, it shall be unlawful for any person other than a duly authorized agent or employee of the city to do any act that results in a resumption of services. If a delinquent customer is not the owner of the premises to which the services are delivered, the payment of the delinquent account may not be required before providing services at the request of a new and different tenant or occupant of the premises, but this restriction shall not apply when the premises are occupied by two or more tenants whose services are measured by the same meter.

(c) Except as provided in subsection (d) of this section and G.S. 160A-314.1, rents, rates, fees, charges, and penalties for enterprisory services shall be legal obligations of the person contracting for them, and shall in no case be a lien upon the property or premises served, provided that no contract shall be necessary in the case of structural and natural stormwater and drainage systems.

(d) Rents, rates, fees, charges, and penalties for enterprisory services shall be legal obligations of the owner of the premises served when:

(1) The property or premises is leased or rented to more than one tenant and services rendered to more than one tenant are measured by the same meter.

(2) Charges made for use of a sewage system are billed separately from charges made for the use of a water distribution system.

(e) Nothing in this section shall repeal any portion of any city charter inconsistent herewith."

Section 5. G.S. 162A-2(12) reads as rewritten:

"(12) The term 'water system' shall mean and include all plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water or the control and drainage of stormwater runoff and any integral part thereof, including but not limited to water supply systems, water distribution systems, stormwater management

programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and structural and natural stormwater and drainage systems of all types, sources of water supply including lakes, reservoirs and wells, intakes, mains, laterals, aqueducts, pumping stations, standpipes, filtration plants, purification plants, hydrants, meters, valves, and all necessary appurtenances and equipment and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof."

Section 6. G.S. 162A-6(14c) reads as rewritten:

"(14c) To adopt ordinances to regulate and control the discharge of sewage or stormwater into any sewerage system owned or operated by the ~~authority and~~ authority, to adopt ordinances concerning stormwater management programs designed to protect water quality by controlling the level of pollutants in and the quantity and flow of stormwater, and to adopt ordinances to regulate and control structural and natural stormwater and drainage systems of all types. Prior to the adoption of any such ordinance or any amendment to any such ordinance, the authority shall first pass a declaration of intent to adopt such ordinance or amendment. The declaration of intent shall describe the ordinance which it is proposed that the authority adopt. The declaration of intent shall be submitted to each governing body for review and comment. The authority shall consider any comment or suggestions offered by any governing body with respect to the proposed ordinance or amendment. Thereafter, the authority shall be authorized to adopt such ordinance or amendment to it at any time after 60 days following the submission of the declaration of intent to each governing body."

Section 7. G.S. 162A-9 reads as rewritten:

"*§ 162A-9. Rates and charges; contracts for water or services; deposits; delinquent charges.*

(a) An authority may establish and revise a schedule of rates, fees, and other charges for the use of and for the services furnished or to be furnished by any water system or sewer system or parts thereof owned or operated by the authority. The rates, fees, and charges established under this subsection are not subject to supervision or regulation by any bureau, board, commission, or other agency of the State or of any political subdivision.

Before an authority sets or revises rates, fees, or other charges for stormwater management programs and structural or natural stormwater and drainage system service, the authority shall hold a public hearing on the matter. At least seven days before the hearing, the authority shall publish notice of the public hearing in a newspaper having general circulation in the area. An authority may impose rates,

fees, or other charges for stormwater management programs and stormwater and drainage system service on a person even though the person has not entered into a contract to receive the service.

Rates, fees, and charges shall be fixed and revised so that the revenues of the authority, together with any other available funds, will be sufficient at all times:

(1) To pay the cost of maintaining, repairing, and operating the systems or parts thereof owned or operated by the authority, including reserves for such purposes, and including provision for the payment of principal of and interest on indebtedness of a political subdivision or of political subdivisions which payment shall have been assumed by the authority, and

(2) To pay the principal of and the interest on all bonds issued by the authority under the provisions of this Article as the same shall become due and payable and to provide reserves therefor.

The fees established under this subsection must be made applicable throughout the service area. Schedules of rates, fees, charges, and penalties for providing stormwater management programs and structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection for stormwater management programs and stormwater and drainage system service may not exceed the authority's cost of providing a stormwater management program and a structural and natural stormwater and drainage system. The authority's cost of providing a stormwater management program and a structural and natural stormwater and drainage system includes any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations, and rules.

No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate stormwater management programs or separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a ~~single~~ stormwater management program and structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing stormwater management programs and structural and natural stormwater and drainage system services.

(b) Notwithstanding any of the foregoing provisions of this section, the authority may enter into contracts relating to the collection, treatment or disposal of sewage or the purchase or sale of water which shall not be subject to revision except in accordance with their terms.

(c) In order to insure the payment of such rates, fees and charges as the same shall become due and payable, the authority may do the following in addition to exercising any other remedies which it may have:

(1) Require reasonable advance deposits to be made with it to be subject to application to the payment of delinquent rates, fees and charges.

(2) At the expiration of 30 days after any rates, fees and charges become delinquent, discontinue supplying water or the services and facilities of any water system or sewer system of the authority.

(3) Specify the order in which partial payments are to be applied when a bill covers more than one service."

Section 8. The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

Section 9. Sections 1 through 4 of this act are effective retroactively to 15 July 1989. Sections 5 through 7 of this act are effective retroactively to 8 July 1991. Sections 8 and 9 of this act are effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law upon approval of the Governor at 10:00 p.m. on the 30th day of June, 2000.

S.B. 1260 **SESSION LAW 2000-71**

AN ACT TO AMEND THE PUBLIC RECORDS LAW TO PROTECT THE INTEGRITY OF ELECTRONIC RECORDS WITHIN THE STATE'S COMPUTER SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 132-6.1(c) reads as rewritten:

"(c) Nothing in this section shall require a public agency to create a computer database that the public agency has not otherwise created or is not otherwise required to be created. Nothing in this section requires a public agency to disclose ~~its software security, including passwords.~~ security features of its electronic data processing systems, information technology systems, telecommunications networks, or electronic security systems, including hardware or software security, passwords, or security standards, procedures, processes, configurations, software, and codes."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law upon approval of the Governor at 10:03 p.m. on the 30th day of June, 2000.

H.B. 1302 **SESSION LAW 2000-72**

AN ACT TO EXEMPT FROM TAX MOTOR FUEL SOLD TO CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.90(b) reads as rewritten:

"(b) Definitions. -- The following definitions apply in this Article:

(1) Charter school. -- A nonprofit corporation that has a charter under G.S. 115C-238.29D to operate a charter school.

~~(1)~~ (1a) City. -- A city as defined by G.S. 160A-1(2). The term also includes an urban service district defined by the governing board of a consolidated city-county, as defined by G.S. 160B-2(1).

~~(1a)~~ (1b) **(See Editor's note)** Code. -- The Internal Revenue Code as enacted as of June 1, 1999, including any provisions enacted as of that date which become effective either before or after that date.

~~(1b)~~ (1c) County. -- Any one of the counties listed in G.S. 153A-10. The term also includes a consolidated city-county as defined by G.S. 160B-2(1).

(2) Reserved.

(3) Electronic Funds Transfer. -- A transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.

(4) Reserved.

(5) Person. -- An individual, a fiduciary, a firm, an association, a partnership, a limited liability company, a corporation, a unit of government, or another group acting as a unit. The term includes an officer or employee of a corporation, a member, a manager, or an employee of a limited liability company, and a member or employee of a partnership who, as officer, employee, member, or manager, is under a duty to perform an act in meeting the requirements of Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter 119 of the General Statutes.

(6) Secretary. -- The Secretary of Revenue.

(7) Tax. -- A tax levied under Subchapter I, V, or VIII of this Chapter or an inspection tax levied under

Article 3 of Chapter 119 of the General Statutes. Unless the context clearly requires otherwise, the terms "tax" and "additional tax" include penalties and interest as well as the principal amount.

(8) Taxpayer. -- A person subject to the tax or reporting requirements of Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter 119 of the General Statutes."

Section 2. G.S. 105-449.88 reads as rewritten:

"*§ 105-449.88. Exemptions from the excise tax.*

The excise tax on motor fuel does not apply to the following:

(1) Motor fuel removed, by transport truck or another means of transfer outside the terminal transfer system, from a terminal for export, if the supplier of the motor fuel collects tax on it at the rate of the motor fuel's destination state.

(2) Motor fuel sold to the federal government for its use.

(3) Motor fuel sold to the State for its use.

(4) Motor fuel sold to a local board of education for use in the public school system.

(5) Diesel that is kerosene and is sold to an airport.

(6) Motor fuel sold to a charter school for use for charter school purposes."

Section 3. G.S. 115C-238.29J is amended by adding a new subsection to read:

"(d) The State Board of Education shall direct the Department of Public Instruction to notify the Department of Revenue when the State Board of Education terminates, fails to renew, or grants a charter for a charter school."

Section 4. This act becomes effective October 1, 2000.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law upon approval of the Governor at 10:05 p.m. on the 30th day of June, 2000.

S.B. 1318 **SESSION LAW 2000-73**

AN ACT TO PROVIDE THAT AN ENTERPRISE TIER TWO AREA MAY NOT BE REDESIGNATED AS A HIGHER-NUMBERED TIER AREA UNTIL IT HAS BEEN AN ENTERPRISE TIER TWO AREA FOR TWO CONSECUTIVE YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-129.3(c) reads as rewritten:

"(c) Exception for Enterprise Tier One and Two Areas. -- Notwithstanding the provisions of this section, a county designated as an enterprise tier one area or an enterprise tier two area may not be redesignated as a higher-numbered enterprise tier area until it has

been ~~an~~ in its enterprise tier ~~one~~ area for at least two consecutive years."

Section 2. This act is effective when it becomes law and, notwithstanding G.S. 105-129.3(b), applies retroactively to designations for the 2000 and later calendar years.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law upon approval of the Governor at 10:06 p.m. on the 30th day of June, 2000.

H.B. 1625 **SESSION LAW 2000-74**

AN ACT TO ESTABLISH A PILOT PROGRAM FOR THE REMOVAL OF ABANDONED VESSELS IN THE NEUSE RIVER BASIN.

The General Assembly of North Carolina enacts:

Section 1.(a) As used in this act:

(1) "Abandoned vessel" means a vessel that, for more than 90 consecutive days, is left either unattended or in a wrecked, junked, or substantially dismantled condition in coastal fishing waters, as defined in G.S. 113-129, or upon submerged lands, as defined in G.S. 146-64.

(2) "Department" means the Department of Environment and Natural Resources.

(3) "Vessel" means any watercraft or structure, including seaplanes, used or capable of being used as a means of transportation or habitation on or under the water. "Vessel" does not include any shipwreck, vessel, cargo, tackle, or underwater archaeological artifact that is within the exclusive dominion and control of the State pursuant to G.S. 121-22 or to artificial reefs managed by the Department.

Section 1.(b) The Department shall implement a pilot program for the removal of abandoned vessels in the Neuse River Basin, as defined in G.S. 143-215.22G, as provided in this act during the period 1 July 2000 through 1 January 2003.

Section 1.(c) The Department may remove an abandoned vessel as provided in this act. The Department shall notify the owner of record of a vessel, as provided in Rule 4 of the Rules of Civil Procedure, that the Department has determined that the vessel is abandoned. The notice shall state that unless the owner submits a plan for the removal of the abandoned vessel and for the restoration of the affected area within 15 days of the date that notice is served on the owner and removes the abandoned vessel and restores the affected area within 45 days of the date that notice is served, the Department may remove the abandoned vessel, restore the affected area, and charge the costs of removal and restoration to the owner. If the owner of the abandoned vessel cannot be determined, the Department shall give notice by publication as provided in Rule 4 of the Rules of Civil

Procedure, G.S. 1A-1, except that, if the Department determines that the value of the abandoned vessel is less than two hundred fifty dollars ($250.00), the Department may publish the notice only once.

Section 1.(d) If the owner of the abandoned vessel does not remove the abandoned vessel and restore the affected area within 45 days of the date on which notice is served, the Department may remove the abandoned vessel. The Department may use staff, equipment, and material under its control or provided by any cooperating federal, State, or local government or agency; may authorize or contract with any private agent or contractor it deems appropriate; or may authorize or contract with any federal, State, or local government or agency for the removal, storage, or disposal of an abandoned vessel and restoration of the affected area. The method of removal, storage, and disposal of the abandoned vessel, whether by the owner, a third party, or the State, must comply with all applicable federal and State laws, regulations, and rules.

Section 1.(e) The owner of an abandoned vessel is liable for all costs incurred by or on behalf of the State to remove, store, and dispose of the abandoned vessel and to restore the affected area. The Department may request the Attorney General to institute a civil action in the superior court of the county where the vessel is located, where the owner of the vessel resides, or where the owner has his or her principal place of business to recover the amount of these costs.

Section 1.(f) The Department is authorized to sell or dispose of an abandoned vessel and its cargo, tackle, and equipment as provided in Article 4 of Chapter 116B of the General Statutes. The net proceeds of the sale shall be used to reimburse the State for costs incurred to remove, store, and dispose of the abandoned vessel and to restore the affected area. Any excess proceeds shall be refunded to the owner or, if the owner cannot be identified or located shall be transferred to the Escheat Fund administered under Article 1 of Chapter 116B of the General Statutes.

Section 1.(g) This act shall not be construed to limit any other civil or criminal action or remedy that may be available to the State, any other agency of government, or any person.

Section 2. The Department shall submit an interim report on the implementation of this act to the Environmental Review Commission no later than 1 January 2002 and shall submit a final report no later than 1 January 2003. The reports shall include the number of abandoned vessels removed under the pilot program, the removal process for each abandoned vessel, the cost to the State for each removal, and the amount of funds recovered for each removal. The report due on 1 January 2003 shall also include recommendations as to whether the pilot program should be extended, expanded, modified, or made permanent.

Section 3. This act shall not be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act. The Department is authorized to implement this act using funds otherwise appropriated or available to the Department.

Section 4. This act becomes effective 1 July 2000 and expires 1 January 2003. An action to recover costs incurred pursuant to this act shall not abate due to the expiration of this act.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law upon approval of the Governor at 10:08 p.m. on the 30th day of June, 2000.

H.B. 723 **SESSION LAW 2000-75**

AN ACT TO ALLOW A PERSON WHO SUFFERS FROM A MEDICAL CONDITION THAT CAUSES THE PERSON TO BE PHOTOSENSITIVE TO VISIBLE LIGHT TO HAVE A DARKER VEHICLE WINDOW THAN IS ALLOWED UNDER THE WINDOW TINTING LAWS AND TO ELIMINATE THE AFTER-FACTORY WINDOW TINTING INSPECTION FEE FOR VEHICLES OWNED BY PERSONS ISSUED A MEDICAL EXCEPTION PERMIT BY THE DIVISION OF MOTOR VEHICLES ALLOWING THE WINDOW TINTING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-127 reads as rewritten:

"*§ 20-127. Windows and windshield wipers.*

(a) Windshield Wipers. -- A vehicle that is operated on a highway and has a windshield ~~must~~ shall have a windshield wiper to clear rain or other substances from the windshield in front of the driver of the vehicle and the windshield wiper ~~must~~ shall be in good working order. If a vehicle has more than one windshield wiper to clear substances from the windshield, all the windshield wipers ~~must~~ shall be in good working order.

(b) Window Tinting Restrictions. -- A window of a vehicle that is operated on a highway or a public vehicular area ~~must~~ shall comply with this subsection. The windshield of the vehicle may be tinted only along the top of the windshield and the tinting may not extend more than five inches below the top of the windshield or below the AS1 line of the windshield, whichever measurement is longer. Provided, however, an untinted clear film which does not obstruct vision but which reduces or eliminates ultraviolet radiation from entering a vehicle may be applied to the windshield. Any other window of the vehicle may be tinted in accordance with the following restrictions:

(1) The total light transmission of the tinted window ~~must~~ shall be at least thirty-five percent (35%). A vehicle window that, by use of a light meter approved by the Commissioner, measures a total light transmission of more than thirty-two percent (32%) is conclusively presumed to meet this restriction.

(2) The light reflectance of the tinted window ~~must~~ shall be twenty percent (20%) or less.

(3) Tinted film or another material used to tint the window ~~must~~ shall be nonreflective and ~~must~~ shall not be ~~a color other than~~ red, yellow, or amber.

(c) Tinting Exceptions. -- The window tinting restrictions in subsection (b) of this section apply without exception to the windshield of a vehicle. The window tinting restrictions in subdivisions (b)(1) and (b)(2) of this section do not apply to any of the following vehicle windows:

(1) A window of an excursion passenger vehicle, as defined in G.S. 20-4.01(27)a.

(2) A window of a for-hire passenger vehicle, as defined in G.S. 20-4.01(27)b.

(3) A window of a common carrier of passengers, as defined in G.S. 20-4.01(27)c.

(4) A window of a motor home, as defined in G.S. 20-4.01(27)d2.

(5) A window of an ambulance, as defined in G.S. 20-4.01(27)f.

(6) The rear window of a property-hauling vehicle, as defined in G.S. 20-4.01(31).

(7) A window of a limousine.

(8) A window of a law enforcement vehicle.

(9) A window of a multipurpose vehicle that is behind the driver of the vehicle. A multipurpose vehicle is a passenger vehicle that is designed to carry 10 or fewer passengers and either is constructed on a truck chassis or has special features designed for occasional off-road operation. A minivan and a pickup truck are multipurpose vehicles.

(10) A window of a vehicle that is registered in another state and meets the requirements of the state in which it is registered.

(11) A window of a vehicle for which the Division has issued a medical exception permit under subsection (f) of this section.

(d) Violations. -- A person who does any of the following commits a misdemeanor of the class set in G.S. 20-176:

(1) Applies tinting to the window of a vehicle that is subject to a safety inspection in this State and the resulting tinted window does not meet the window tinting restrictions set in this section.

(2) Drives on a highway or a public vehicular area a vehicle that has a window that does not meet the window tinting restrictions set in this section.

(e) Defense. -- It is a defense to a charge of driving a vehicle with an unlawfully tinted window that the tinting was removed within 15 days after the charge and the window now meets the window tinting restrictions. To assert this defense, the person charged ~~must~~ shall produce in court, or submit to the prosecuting attorney before trial, a

certificate from the Division of Motor Vehicles or the Highway Patrol showing that the window complies with the restrictions.

(f) Medical Exception. -- A person who suffers from a medical condition that causes the person to be photosensitive to visible light may obtain a medical exception permit. To obtain a permit, an applicant shall apply in writing to the Drivers Medical Evaluation Program and have his or her doctor complete the required medical evaluation form provided by the Division. The permit shall be valid for five years from the date of issue, unless a shorter time is directed by the Drivers Medical Evaluation Program. The renewal shall require a medical recertification that the person continues to suffer from a medical condition requiring tinting.

A person may receive no more than two medical exception permits that are valid at any one time. A permit issued under this subsection shall specify the vehicle to which it applies, the windows that may be tinted, and the permitted levels of tinting. The permit shall be carried in the vehicle to which it applies when the vehicle is driven on a highway.

The Division shall give a person who receives a medical exception permit a sticker to place on the lower left-hand corner of the rear window of the vehicle to which it applies. The sticker shall be designed to give prospective purchasers of the vehicle notice that the windows of the vehicle do not meet the requirements of G.S. 20-127(b), and shall be placed between the window and the tinting when the tinting is installed. The Division shall adopt rules regarding the specifications of the medical exception sticker. Failure to display the sticker is an infraction punishable by a two hundred dollar ($200.00) fine."

Section 2. The Medical Review Branch of the Division of Motor Vehicles shall issue rules and create forms and permits necessary for this program. Until funds for this program are appropriated by the General Assembly, the Medical Review Branch shall manually issue all medical exception permits and shall manually maintain the records related specifically to these permits.

The Division of Motor Vehicles shall add the medical exception described in Section 1 of this act to the STARS program, to allow the computerized issuance of medical exception permits and to allow computerized maintenance of the records related specifically to these permits when it is modifying that computer program for some other purpose.

The Division of Motor Vehicles shall report to the Joint Legislative Transportation Oversight Committee six months after the first medical exception permit is issued on the number of permits issued and the projected additional costs, if any, of operating the program.

Section 3. G.S. 20-183.7(a) reads as rewritten:

"(a) Fee Amount. -- When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be

collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety ~~Only, Without After-Factory Tinted Window~~ Only	$ 8.25	$ 1.00
~~Safety Only, With After-Factory Tinted Window~~	~~18.25~~	~~1.00~~
Emissions and Safety ~~Without After-Factory Tinted Window~~	17.00	2.40
~~Emissions and Safety With After-Factory Tinted Window~~	~~27.00~~	~~2.40~~.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for ~~performing an inspection of a vehicle with a~~ inspecting after-factory tinted ~~window~~ windows shall be ten dollars ($10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee."

Section 4. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law upon approval of the Governor at 10:10 p.m. on the 30th day of June, 2000.

S.B. 1193 **SESSION LAW 2000-76**

AN ACT TO RESOLVE A BOUNDARY OVERLAP BETWEEN THE RONDA AND ROARING RIVER VOLUNTEER FIRE TAX DISTRICTS IN WILKES COUNTY AND TO VALIDATE CERTAIN ACTIONS, AND TO EXPAND THE GLENDALE SPRINGS FIRE PROTECTION DISTRICT IN ASHE COUNTY.

The General Assembly of North Carolina enacts:

Section 1.(a) The newly agreed boundary line for the Roaring River Fire Tax District in the area from the intersection of Poplar Springs Road and North Ridge Road south to Old U.S. Highway 421 shall be as follows:

BEGINNING at the intersection of S.R. 1924 (Poplar Springs Road) and S.R. 2015 (North Ridge Road), thence in a southeasterly direction

with S.R. 2015 to the intersection of S.R. 2015 and N.C. Highway 268, including all property with primary access from S.R. 2015 between this and the preceding point; thence in a southerly direction in a straight line to a point on S.R. 2321 (Old 60) .2 miles west of Gray's Creek Bridge; thence in a southerly direction in a straight line to the intersection of S.R. 2318 (Mathis Mill Road), S.R. 2319 (South Plum Ridge Road), and S.R. 2320 (North Plum Ridge Road); thence in a southerly direction with S.R. 2319 to the intersection of S.R. 2319 and U.S. Highway 421, including all property adjacent to or accessed from S.R. 2319 between this and the preceding point; thence in an easterly direction following the centerline of U.S. Highway 421 to the intersection of U.S. 421 and S.R. 2346 (Old U.S. Highway 421); thence in a westerly direction with S.R. 2346 to a point 1.1 miles west of said intersection, including all property on both sides of S.R. 2346 adjacent to or accessed from S.R. 2346. The foregoing description for said boundary line shall not be affected or altered in any way by the widening, relocation, or four-laning of U.S. Highway 421.

Section 1.(b) The newly agreed boundary line for the Ronda Fire Tax District in the area from the intersection of Poplar Springs Road and North Ridge Road south to Old U.S. Highway 421 shall be as follows:

BEGINNING at the intersection of S.R. 1924 (Poplar Springs Road) and S.R. 2015 (North Ridge Road), thence in a southeasterly direction with S.R. 2015 to the intersection of S.R. 2015 and N.C. Highway 268, excluding all property with primary access from S.R. 2015 between this and the preceding point; thence in a southerly direction in a straight line to a point on S.R. 2321 (Old 60) .2 miles west of Gray's Creek Bridge; thence in a southerly direction in a straight line to the intersection of S.R. 2318 (Mathis Mill Road), S.R. 2319 (South Plum Ridge Road), and S.R. 2320 (North Plum Ridge Road); thence in a southerly direction with S.R. 2319 to the intersection of S.R. 2319 and U.S. Highway 421, excluding all property adjacent to or accessed from S.R. 2319 between this and the preceding point; thence in an easterly direction following the centerline of U.S. Highway 421 to the intersection of U.S. 421 and S.R. 2346 (Old U.S. Highway 421); thence in a westerly direction with S.R. 2346 to a point 1.1 miles west of said intersection, excluding all property on both sides of S.R. 2346 adjacent to or accessed from S.R. 2346. The foregoing description for said boundary line shall not be affected or altered in any way by the widening, relocation, or four-laning of U.S. Highway 421.

Section 2. Subject to the new boundary line as provided in this act, the 1985 extensions of the Ronda and Roaring River Fire Tax districts in Wilkes County are valid and lawful. All collections of fire tax revenues by Wilkes County since 1985 in the areas subject to the extensions are valid and lawful, without regard to which fire tax district (and corresponding fire tax rate) those revenues were collected

from, and without regard to which volunteer fire department those revenues were allocated to.

Section 3. The boundaries of the Glendale Springs Fire Protection District established under Article 3A of Chapter 69 of the General Statutes are as follows:

Beginning at the intersection of NC 88 and Low Gap Road running west to where NC 88 intersects with Ebenezer Road, labeled as point 2 on the exhibit. From there the line goes south - southeast along Ebenezer and taking an overland route to the east of and encompassing all of Roe Hunt Road to a point on the Blue Ridge Parkway labeled as point 3 on the exhibit. From there the line runs southwest - south along the county boundary line to a point east of the Blue Ridge Parkway labeled as point 4 on the exhibit. From there the line runs in a westerly direction along the county boundary line to a point on the Blue Ridge Parkway just west of its intersection with Park Vista Road, labeled as point 5 on the exhibit. From there the boundary line travels northwesterly for a short distance, encompassing both sides of Park Vista Road, before turning northward in an overland line to the intersection of Canoe Gap and Idlewild Road, labeled as point 6 on the exhibit. The boundary line continues northward to the intersection of Canoe Gap Road and Hartsog Ford Road, labeled as point 7 on the exhibit. From there the line runs slightly northeast to a point where the river bridge crosses NC 163, labeled as point 8 on the exhibit. From there the boundary line takes a meandering path along the east side of the New River to a point where the river runs beside Boggs Road, labeled as point 9 on the exhibit. From there the boundary line runs slightly northeast to a point where Cox Road runs beside the New River, labeled as point 10 on the exhibit. From there, the line runs along the New River to a point where NC 16 intersects with NC 88, labeled as point 11 on the exhibit. From there, the line runs along NC 88, encompassing the southern portion of the road, until it intersects with Low Gap, labeled as point 1.

Section 4. Section 3 becomes effective June 30, 2000. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law on the date it was ratified.

S.B. 1289 **SESSION LAW 2000-77**

AN ACT TO PERMIT MECKLENBURG COUNTY TO ENGAGE IN CONDITIONAL ZONING.

The General Assembly of North Carolina enacts:

Section 1.(a) In addition to other types of zoning districts permitted by G.S. 153A-342, the Board of Commissioners may provide for the establishment of conditional zoning districts, including parallel conditional zoning districts. For purposes of this act, a

"conditional zoning district" shall be defined as a zoning district in which the development and use of the property included in the district is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. "Parallel conditional zoning district" shall mean a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general use district having a parallel designation or name. In contrast to conditional use district or special use district zoning, conditional zoning shall not require the issuance of a conditional use or special use permit or permitting process apart from the establishment of the district and its application to particular properties. Rules, regulations, and conditions applicable to any conditional zoning district need not be uniform in all respects for all properties within the same classification of conditional zoning district but may differ based on the unique aspects of each conditional zoning district development, site, and surrounding area.

Section 1.(b) Property may be rezoned to a conditional zoning district only in response to and consistent with a petition of the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan and supporting information that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district.

Section 1.(c) Conditional zoning decisions shall be made in consideration of identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.

Section 1.(d) Before a public hearing may be held on a petition for conditional zoning, the petitioner must file in the Office of the Clerk to the Board, a written report of at least one community meeting held by the petitioner. Notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by County policy. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner

shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this subsection shall be considered by the Board of Commissioners but shall not be subject to judicial review.

Section 1.(e) Conditional zoning decisions under this act are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions.

Section 1.(f) Except as specifically modified by this act, the procedures to be followed by the Board of Commissioners in reviewing, granting, or denying any petition for conditional zoning shall be the same as those established for general use district zoning petitions under Article 18 of Chapter 153A of the General Statutes.

Section 1.(g) The Board of Commissioners may not vote to rezone property to a conditional zoning district during the time period beginning on the date of the general election and concluding on the Tuesday after the first Monday in December immediately following the general election unless no person spoke against the rezoning at the public hearing.

Section 2. This act applies only to conditional zoning petitions filed on or before August 31, 2001. Notwithstanding the foregoing, this act shall not apply to conditional zoning petitions that were approved or denied by the Board of Commissioners prior to April 17, 2000, and shall not affect any rezoning case that is the subject of pending litigation.

Petitions seeking either conditional district rezoning or conditional use district rezoning which were pending and not yet decided as of April 17, 2000, may be treated by the county as petitions for conditional zoning under this act. Such petitions need not be refiled, but all other processes spelled out in this act, including the mandatory neighborhood meeting and report and a new public hearing, must be followed as to such petitions.

Section 2.1. Chapter 1283 of the 1973 Session Laws and Chapter 488 of the 1983 Session Laws are repealed as to the County of Mecklenburg only.

Section 3. This act applies to Mecklenburg County only.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law on the date it was ratified.

S.B. 1363 **SESSION LAW 2000-78**

AN ACT ALLOWING THE CITY OF WHITEVILLE TO EXERCISE EXTRATERRITORIAL JURISDICTION OVER AN AREA EXTENDING TWO MILES FROM ITS LIMITS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 160A-360(a), the City of Whiteville may exercise the powers granted in Article 19 of Chapter 160A of the General Statutes over an area extending not more than two miles beyond its limits.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law on the date it was ratified.

S.B. 1382 **SESSION LAW 2000-79**

AN ACT TO EXEMPT SURRY COUNTY FROM CERTAIN STATUTORY REQUIREMENTS IN THE RENOVATION AND EXPANSION OF A BUILDING TO BE USED AS A MULTIPURPOSE FACILITY.

The General Assembly of North Carolina enacts:

Section 1. The County of Surry may renovate and expand a building for use as a multipurpose facility without being subject to the requirements of G.S. 143-128, 143-129, 143-131, and 143-132.

Section 2. This act is effective when it becomes law and expires December 31, 2002.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law on the date it was ratified.

H.B. 1288 **SESSION LAW 2000-80**

AN ACT TO RECOGNIZE METROPOLITAN PLANNING ORGANIZATIONS IN STATE LAW AND TO PROVIDE A PROCESS FOR VOLUNTARY EVALUATION OF METROPOLITAN PLANNING ORGANIZATION BOUNDARIES, STRUCTURE, AND GOVERNANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-200 is amended by adding a new subsection to read:

"(1a) 'Consolidated Metropolitan Planning Organization' means a metropolitan planning organization created on or after January 1, 2001, through a memorandum of understanding by the consolidation of two or more metropolitan planning organizations in existence prior to January 1, 2001, and in accordance with 23 U.S.C. § 134."

Section 2. G.S. 136-200(2) is rewritten to read:

"(2) 'Department' means the North Carolina Department of Transportation."

Section 3. G.S. 136-200(4) is rewritten to read:

"(4) 'Metropolitan Planning Organization' or 'MPO' means an agency that is designated or redesignated by a memorandum of understanding as a Metropolitan Planning Organization in accordance with 23 U.S.C. § 134."

Section 4. Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"*§ 136-200.1. Metropolitan planning organizations recognized.*

Metropolitan planning organizations established pursuant to the provisions of 23 U.S.C. § 134 are hereby recognized under the law of the State. Metropolitan planning organizations in existence on the effective date of this section continue unaffected until redesignated or restructured in accordance with the provisions of and according to the procedures established by 23 U.S.C. § 134 and this Article. The provisions of this Article are intended to supplement the provisions of 23 U.S.C. § 134. In the event any provision of this Article is deemed inconsistent with the requirements of 23 U.S.C. § 134, the provisions of federal law shall control."

Section 5. Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"*§ 136-200.2. Decennial review of metropolitan planning organization boundaries, structure, and governance.*

(a) Evaluation. -- Following each decennial census, and more frequently if requested by an individual metropolitan planning organization, the Governor and the Secretary of Transportation, in cooperation with the affected metropolitan planning organization or organizations, shall initiate an evaluation of the boundaries, structure, and governance of each metropolitan planning organization in the State. The goal of the evaluation shall be to examine the need for and to make recommendations for adjustments to metropolitan planning organization boundaries, structure, or governance in order to ensure compliance with the objectives of 23 U.S.C. § 134. The Secretary shall submit a report of the evaluation process to the Governor and to the Joint Legislative Transportation Oversight Committee.

(b) Factors for Evaluation. -- The evaluation of the area, structure, and governance of each metropolitan planning organization shall include all of the following factors:

(1) Existing and projected future commuting and travel patterns and urban growth projections.

(2) Integration of planning with existing regional transportation facilities, such as airports, seaports, and major interstate and intrastate road and rail facilities.

(3) Conformity with and support for existing or proposed regional transit and mass transportation programs and initiatives.

(4) Boundaries of existing or proposed federally designated air quality nonattainment areas or air-quality management regions.

(5) Metropolitan Statistical Area boundaries.

(6) Existing or proposed cooperative regional planning structures.

(7) Administrative efficiency, availability of resources, and complexity of management.

(8) Feasibility of the creation of interstate metropolitan planning organizations.

(9) Governance structures, as provided in subsection (c) of this section.

(c) Metropolitan Planning Organization Structures. -- The Governor and Secretary of Transportation, in cooperation with existing metropolitan planning organizations and local elected officials, may consider the following changes to the structure of existing metropolitan planning organizations:

(1) Expansion of existing metropolitan planning organization boundaries to include areas specified in 23 U.S.C. § 134(c).

(2) Consolidation of existing contiguous metropolitan planning organizations in accordance with the redesignation procedure specified in 23 U.S.C. § 134(b).

(3) Creation of metropolitan planning organization subcommittees with responsibility for matters that affect a limited number of constituent jurisdictions, as specified in a memorandum of understanding redesignating a metropolitan planning organization in accordance with the provisions of 23 U.S.C. § 134.

(4) Formation of joint committees or working groups among contiguous nonconsolidated metropolitan planning organizations, with such powers and responsibilities as may be delegated to such joint committees pursuant to their respective memoranda of understanding.

(5) Creation of interstate compacts pursuant to 23 U.S.C. § 134(d) to address coordination of planning among metropolitan planning organizations located in this State and contiguous metropolitan planning organizations located in adjoining states.

(6) Delegation by the governing board of a metropolitan planning organization of part or all of its responsibilities to a regional transportation authority created under Article 27 of Chapter 160A of the General Statutes, if the regional transportation authority is eligible to exercise that authority under 23 U.S.C. § 134.

(d) Optional Governance Provisions. -- In addition to any other provisions permitted or required pursuant to 23 U.S.C. § 134, the memorandum of understanding, creating, enlarging, modifying, or restructuring a metropolitan planning organization may also include any of the following provisions relating to governance:

(1) Distribution of voting power among the constituent counties, municipal corporations, and other participating organizations on a basis or bases other than population.

(2) Membership and representation of regional transit or transportation authorities or other regional organizations in addition to membership of counties and municipal corporations.

(3) Requirements for weighted voting or supermajority voting on some or all issues.

(4) Provisions authorizing or requiring the delegation of certain decisions or approvals to less than the full-voting membership of the metropolitan planning organization in matters that affect only a limited number of constituent jurisdictions.

(5) Requirements for rotation and sharing of officer positions and committee chair positions in order to protect against concentration of authority within the metropolitan planning organization.

(6) Any other provision agreed to by the requisite majority of jurisdictions constituting the metropolitan planning organization.

(e) Effect of Evaluation. -- Upon completion of the evaluation required under this section, a metropolitan planning organization may be restructured in accordance with the procedure contained in 23 U.S.C. § 134(b)(5).

(f) Assistance. -- The Department may provide staff assistance to metropolitan planning organizations in existence prior to January 1, 2001, that are considering consolidation on or after January 1, 2001. In addition, the Department may provide funding assistance to metropolitan planning organizations considering consolidation, upon receipt of a letter of intent from jurisdictions representing seventy-five percent (75%) of the affected population, including the central city, in each metropolitan planning organization considering consolidation."

Section 6. Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"*§ 136-200.3. Additional provisions applicable to consolidated metropolitan planning organizations.*

(a) Limit on Basis for Project Objection. -- Beginning with the 2004 State Transportation Improvement Program, neither the State nor a consolidated metropolitan planning organization shall have a basis to object to a project that is proposed for funding in the Transportation Improvement Program, provided that the project does not affect projects previously programmed, if the project is included in a mutually adopted plan developed pursuant to G.S. 136-66.2, and is consistent with the project selection criteria contained in the memorandum of understanding creating the consolidated metropolitan planning organization.

(b) Project Ranking Priorities. -- Beginning with the 2004 State Transportation Improvement Program, and subject to the availability of funding, the Department of Transportation, when developing the Transportation Improvement Program, shall abide by the project ranking priorities approved by a:

(1) Consolidated metropolitan planning organization for any project within its jurisdiction, if the project is not a National Highway System or bridge and Interstate maintenance program project.

(2) Regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes, for any project that all metropolitan planning organizations within the authority's jurisdiction have delegated responsibility, if the project is not a National Highway System or bridge and Interstate maintenance program project."

Section 7. Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"*§ 136-200.4. Additional requirements for metropolitan planning organizations located in nonattainment areas.*

(a) Consultation and Single Conformity Plan Required. -- When an area of the State is designated as non-attainment under the federal Clean Air Act (42 U.S.C. § 7401, et seq.) all metropolitan planning organizations with at least twenty-five percent (25%) of their area of jurisdiction located within the boundaries of the nonattainment area shall consult on appropriate emissions reduction strategies and shall adopt a single, unified plan for achieving conformity. The strategies set forth in the unified plan shall be incorporated by each affected metropolitan planning organization into its respective long range transportation plan developed pursuant to 23 U.S.C. § 134(g).

(b) Effect of Failure to Adopt Required Plan. -- If a metropolitan planning organization does not comply with the provisions of subsection (a) of this section within one year after designation of at least twenty-five percent (25%) of the metropolitan planning organization's area of jurisdiction as nonattainment under the federal Clean Air Act (42 U.S.C. § 7401, et seq.), the Department shall not allocate any of the following funds to projects within the metropolitan planning organization's area of jurisdiction:

(1) One hundred percent (100%) State-funded road construction funds.

(2) State matching funds for any road construction or transit capital project.

(3) Federal congestion mitigation and air quality improvement program funds.

(c) Mandatory Evaluation and Report. -- Each metropolitan planning organization located in whole or in part in areas designated as nonattainment under the federal Clean Air Act (42 U.S.C. § 7401 et seq.) shall complete the evaluation process provided for in G.S. 136-200.2 and submit its findings and recommendations to the Department of Transportation within one year of the effective date of designation as nonattainment. A metropolitan planning organization may request and be granted by the Department an extension if the metropolitan planning organization can show cause for the extension. Extensions shall be granted in no more than one year increments."

Section 8. This act becomes effective January 1, 2001.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law upon approval of the Governor at 10:10 a.m. on the 5th day of July, 2000.

H.B. 1629 **SESSION LAW 2000-81**

AN ACT TO AUTHORIZE THE ISSUANCE OF STATE REVENUE BONDS TO FINANCE IMPROVEMENTS TO THE WATER AND SEWER SYSTEM FOR THE COMMUNITY OF BUTNER AND THE CAMP BUTNER RESERVATION.

The General Assembly of North Carolina enacts:

Section 1. Findings and purpose. The General Assembly finds and determines as follows:

(1) The Community of Butner and the Camp Butner reservation constitute a unique State resource administered by the State of North Carolina through the Secretary of the North Carolina Department of Health and Human Services and regulated by Parts 1 through 1B of Article 6 of Chapter 122C of the General Statutes.

(2) Pursuant to G.S. 122C-407, the Department is authorized to acquire, construct, establish, enlarge, maintain, operate, and contract for the operation of a water supply and distribution system and a sewage collection and disposal system for the Camp Butner reservation. Acting pursuant to this authority, the Department has so established a water and sewer system for the Camp Butner reservation. While historically the Department has been able to construct, acquire, maintain, and operate the water and sewer system from funds appropriated to the Department by the General Assembly, from rates, fees, and charges collected from the users of the system, and from other funds available to the Department, significant capital outlay is now required for the improvement and maintenance of the water and sewer system and at present there are not sufficient resources available for that purpose.

(3) The Secretary of Health and Human Services has proposed that the State finance improvements to the Camp Butner reservation through the issuance of revenue bonds issued by the State pursuant to The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes. G.S. 159-88(c) mandates that prior to the adoption of a bond order authorizing the issuance of revenue bonds of the State under The State and Local Government Revenue Bond Act, the General Assembly must enact legislation authorizing the undertaking of the revenue bond project to be financed and fixing the maximum aggregate principal

amount of revenue bonds that will be issued for that purpose.

(4) It is the intent of the General Assembly to enact the legislation necessary so that the State may issue revenue bonds for the purpose of paying (i) the costs of acquisition, construction, reconstruction, improvement, enlargement, betterment, and extension of the water supply and distribution system and sewage collection and disposal system for the Community of Butner and the Camp Butner reservation and (ii) certain costs of issuance of the revenue bonds.

Section 2. Definitions. The following definitions apply in this act:

(1) "Department" means the North Carolina Department of Health and Human Services.

(2) "Secretary" means the Secretary of the North Carolina Department of Health and Human Services, or any successor office.

(3) "Project" means the water supply and distribution system and sewer collection and disposal system serving an area including, but not limited to, the Community of Butner and the Camp Butner reservation pursuant to G.S. 122C-407.

Section 3. General grant of powers. The State of North Carolina, acting through the Secretary, is authorized, subject to the provisions of this act, to issue revenue bonds pursuant to The State and Local Government Revenue Bond Act to pay the costs of the project and associated costs. The project is a "revenue bond project" within the meaning of The State and Local Government Revenue Bond Act. Except as otherwise provided in this act, these revenue bonds shall be issued in compliance with The State and Local Government Revenue Bond Act, and in administering the project the provisions of The State and Local Revenue Bond Act shall be in full force and effect.

Section 4. Issuance of revenue bonds. The total amount of bonds to be issued pursuant to this act shall not exceed forty million dollars ($40,000,000). These bonds may be issued at one time or from time to time as the Secretary considers necessary. Bonds issued pursuant to this act shall be issued pursuant to an order adopted by the Council of State under G.S. 159-88 of The State and Local Government Revenue Bond Act. Bonds issued pursuant to this act shall be sold by the Local Government Commission pursuant to the provisions of Article 7 of Chapter 159 of the General Statutes.

Section 5. Negotiable instruments. Notwithstanding any of the foregoing provisions of this act or any recitals in any bonds issued under the provisions of this act, all these bonds are negotiable instruments under the laws of this State, subject only to any applicable provisions for registration.

Section 6. Tax exemptions. Bonds issued under this act shall at all times be free from taxation by the State or any political

subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the securities, and franchise taxes. The interest on the bonds is not subject to taxation as income.

Section 7. Interpretation of act. (a) Additional method. This act provides an additional and alternative method for the doing of the things authorized by the act and is supplemental and additional to powers conferred by other laws, and, except as expressly provided, does not derogate any powers now existing.

Section 7.(b) Statutory references. References in this act to specific sections or Chapters of the General Statutes are intended to be references to these sections or Chapters as they may be amended from time to time by the General Assembly.

Section 7.(c) Liberal construction. This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

Section 7.(d) Severability. If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 8. Effective date. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law upon approval of the Governor at 10:12 a.m. on the 5th day of July, 2000.

H.B. 1506 **SESSION LAW 2000-82**

AN ACT TO REQUIRE ESTABLISHMENTS THAT PREPARE OR SERVE FOOD TO A CERTAIN NUMBER OF REGULAR BOARDERS OR PERMANENT HOUSEGUESTS COMPLY WITH STATE FOOD SANITATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-250 reads as rewritten:

"§ *130A-250. Exemptions.*

The following shall be exempt from this Part:

(1) Establishments that provide lodging described in G.S. 130A-248(a1) with four or fewer lodging units.

(2) Condominiums.

(3) Establishments that prepare or serve food or provide lodging to regular boarders or permanent ~~house guests only.~~ houseguests only. However, the rules governing food sanitation adopted under G.S. 130A-248 apply to establishments that are not regulated under G.S. 130A-235 and that prepare or serve food for pay to 13 or more regular boarders or permanent houseguests who are

disabled or who are 55 years of age or older. Establishments to which the rules governing food sanitation are made applicable by this subdivision that are in operation as of 1 July 2000 may continue to use equipment and construction in use on that date if no imminent hazard exists. Replacement equipment for these establishments shall comply with the rules governing food sanitation adopted under G.S. 130A-248.

(4) Private homes that occasionally offer lodging accommodations, which may include the providing of food, for two weeks or less to persons attending special events, provided these homes are not bed and breakfast homes or bed and breakfast inns.

(5) Private clubs.

(6) Curb markets operated by the State Agricultural Extension Service.

(7) Establishments that prepare or serve food or drink for pay no more frequently than once a month for a period not to exceed two consecutive days, including establishments permitted pursuant to this Part when preparing or serving food or drink at a location other than the permitted locations.

(8) Establishments that put together, portion, set out, or hand out only beverages that do not include those made from raw apples or potentially hazardous beverages made from raw fruits or vegetables, using single service containers that are not reused on the premises.

(9) Establishments where meat food products or poultry products are prepared and sold and which are under inspection by the North Carolina Department of Agriculture and Consumer Services or the United States Department of Agriculture.

(10) Markets that sell uncooked cured country ham or uncooked cured salted pork and that engage in minimal preparation such as slicing, weighing, or wrapping the ham or pork, when this minimal preparation is the only activity that would otherwise subject these markets to regulation under this Part.

(11) Establishments that only set out or hand out beverages that are regulated by the North Carolina Department of Agriculture and Consumer Services in accordance with Article 12 of Chapter 106 of the General Statutes.

(12) Establishments that only set out or hand out food that is regulated by the North Carolina Department of Agriculture and Consumer Services in accordance with Article 12 of Chapter 106 of the General Statutes."

Section 2. This act becomes effective 1 July 2001.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law upon approval of the Governor at 2:50 p.m. on the 5th day of July, 2000.

H.B. 1519 **SESSION LAW 2000-83**

AN ACT TO ESTABLISH THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES, AND TO DIRECT THE OVERSIGHT COMMITTEE TO DEVELOP A PLAN TO REFORM THE STATE SYSTEM FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

Whereas, in 1998 and 1999 the General Assembly directed the State Auditor to coordinate and contract for a study of the State Psychiatric Hospitals and Area Mental Health Programs; and

Whereas, the "Study of State Psychiatric Hospitals and Area Mental Health Programs" ("Study"), April 1, 2000, was conducted by the Public Consulting Group, Inc., under the coordination of the State Auditor, and with the cooperation and assistance of the Department of Health and Human Services and other organizations and individuals; and

Whereas, the findings and recommendations of the Study present a comprehensive blueprint for reform of the State's mental health system; and

Whereas, the General Assembly endorses the findings of the Study; and

Whereas, effective implementation of mental health reform requires continuous legislative oversight to review and consider the recommendations of the Study and other matters and to recommend the necessary changes to State law and policy; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Findings. -- The General Assembly finds that:

(1) The State and local government entities are not using effectively and efficiently available resources to administer and provide mental health, developmental disabilities, and substance abuse services uniformly across the State.

(2) Effective implementation of State policy to assist individuals with mental illness, developmental disabilities, and substance abuse problems requires that a standard system of services, designed to identify, assess, and meet client needs within available resources, be available in all regions of the State.

(3) The findings of recent comprehensive independent studies, and recent federal court decisions, compel the State to consider significant changes in the operation and utilization of State psychiatric hospital services.

(4) State and local government funds for mental health, developmental disabilities, and substance abuse services must

be committed on a continuing, stabilized basis and will need to be increased over time to ensure that the purposes of mental health system reform are achieved.

(5) Reform of the State mental health, developmental disabilities, and substance abuse services system is necessary and should begin immediately. Reform efforts should focus on correcting system inefficiencies, inequities in service availability, and deficiencies in funding and accountability, and on improving and enhancing services to North Carolina's citizens.

Section 2. Oversight Committee Established. -- Chapter 120 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 27.
"The Joint Legislative Oversight Committee
on Mental Health, Developmental Disabilities,
and Substance Abuse Services.

"§ 120-240. Creation and membership of Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

(a) Establishment; Definition. -- There is established the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

(b) Membership. -- The Committee shall consist of 16 members, as follows:

(1) Eight members of the Senate appointed by the President Pro Tempore of the Senate, as follows:
   a. At least two members of the Senate Committee on Appropriations.
   b. The chair of the Senate Appropriations Committee on Human Resources.
   c. At least two members of the minority party.

(2) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives, as follows:
   a. At least two members of the House of Representatives Committee on Appropriations.
   b. The cochairs of the House of Representatives Appropriations Subcommittee on Health and Human Services.
   c. At least two members of the minority party.

(c) Terms. -- Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment and end on the day of the convening of the 2001 General Assembly. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until the member's successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

"*§ 120-241. Purpose of Committee.*

The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services shall examine, on a continuing basis, systemwide issues affecting the development, financing, administration, and delivery of mental health, developmental disabilities, and substance abuse services, including issues relating to the governance, accountability, and quality of services delivered. The Committee shall make ongoing recommendations to the General Assembly on ways to improve the quality and delivery of services and to maintain a high level of effectiveness and efficiency in system administration at the State and local levels. In conducting its examination, the Committee shall study the budget, programs, administrative organization, and policies of the Department of Health and Human Services to determine ways in which the General Assembly may encourage improvement in mental health, developmental disabilities, and substance abuse services provided to North Carolinians.

"*§ 120-242. Organization of Committee.*

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is eight members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee."

Section 3.(a) Plan for Mental Health System Reform. -- Terms Defined. -- As used in this section, unless the context clearly provides otherwise:

(1) "Committee" means the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

(2) "Mental Health System Reform" includes the system of services for mental health, developmental disabilities, and substance abuse.

(3) "Plan" means the Plan for Mental Health System Reform developed and recommended by the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

(4) "State Auditor/PCG, Inc., Study" means the "Study of State Psychiatric Hospitals and Area Mental Health Programs, April 1, 2000", conducted by the Public Consulting Group, Inc., under coordination by and contract with the State Auditor.

Section 3.(b) Development of Plan for Mental Health System Reform. -- The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services established under Article 27 of Chapter 120 of the General Statutes shall develop a Plan for Mental Health System Reform. It is the intent of the General Assembly that the Plan shall be fully implemented not later than July 1, 2005.

Section 3.(c) Purpose and Content of the Plan. -- The Plan shall provide for systematic, phased-in implementation of changes to the State's mental health system. In developing the Plan, the Committee shall do the following:

(1) Review and consider the findings and recommendations of the State Auditor/PCG, Inc., Study.

(2) Report to the 2001 General Assembly upon its convening the changes that should be made to the governance, structure, and financing of the State's mental health system at the State and local levels. The report shall include:

a. An explanation of how and the extent to which the proposed changes are in accord with or differ from the recommendations of the State Auditor/PCG, Inc., Study.

b. Proposed time frames for implementing mental health system reform on a phased-in basis, and the recommended effective date for full implementation of all recommended changes.

c. An estimate of the amount of State and federal funds necessary to implement the changes. The estimate should indicate costs of each phase of implementation and the total cost of full implementation.

d. An estimate of the amount of savings in State funds expected to be realized from the changes. The estimate should show savings expected in each phase of implementation, and the total amount of savings expected to be realized from full implementation.

e. The potential financial, economic, and social impact of changes to the current governance, structure, and financing of the mental health system on providers,

clients, communities, and institutions at the State and local levels.

f. Proposed legislation making the necessary amendments to the General Statutes to enact the recommended changes to the system of governance, structure, and financing.

(3) Study the administration, financing, and delivery of developmental disabilities services. The study shall be in greater depth and detail than addressed in the State Auditor/PCG, Inc., Study. The Committee shall make a progress report on its study of developmental disabilities services to the 2001 General Assembly upon its convening.

(4) Study the feasibility and impact of and best methods for downsizing of the State's four psychiatric hospitals. In conducting this study, the Committee shall:

a. Take into account the need to enhance and improve community services to meet increased demand resulting from downsizing, and

b. Consider the findings and recommendations of the MGT of America Report of 1998, as well as the State Auditor/PCG, Inc., Study.

(5) Consider the impact of mental health system reform on quality of services and patient care and ensure that the Plan provides for ongoing review and improvements to quality of services and patient care.

(6) Ensure that the Plan provides for the active involvement of consumers and families in mental health system reform and ongoing implementation.

(7) Address the need to enhance and improve substance abuse services, including services for the prevention of substance abuse.

(8) Recommend a mental health, developmental disabilities, and substance abuse services benefits package that will provide for basic benefits for these services as well as specific benefits for targeted populations.

(9) Take into account the State's responsibility to enable institutionalized persons and persons at risk for institutionalization to receive services outside of the institution in community-based settings in accordance with the United States Supreme Court decision in Olmstead vs. L.C., (1999).

(10) Identify and address issues pertaining to the administration and provision of mental health services to children.

(11) Address issues, problems, strengths, and weaknesses in the current mental health system that are not addressed in the State Auditor/PCG, Inc., Study but that warrant consideration in the development of a reformed mental health system.

(12) Consider whether the State shall implement a contested case hearings procedure for applicants and recipients of mental health, developmental disabilities, and substance abuse services.

Section 3.(d) Subcommittees. -- The Committee shall establish one or more subcommittees to consider and develop specific focus areas of the Plan. Each subcommittee shall be the working group for the focus area assigned by the Committee cochairs. The Committee cochairs shall appoint the cochairs and members of each subcommittee from the Committee membership. The Committee cochairs shall invite representatives from the following to participate as nonvoting members of each subcommittee:

(1) Providers of mental health, developmental disabilities, substance abuse, long-term care, and other appropriate providers.
(2) Consumers of mental health, developmental disabilities, and substance abuse services and family members of consumers of these services.
(3) State and local government, including area mental health programs.
(4) Business and industry.
(5) Organizations that advocate for individuals in need of mental health, developmental disabilities, and substance abuse services.

Subcommittees shall meet at the call of the subcommittee cochairs.

The Committee cochairs shall assign the focus area for each subcommittee. Each subcommittee shall carry out its assignment as directed by the Committee cochairs and shall provide its findings and recommendations to the Committee cochairs for final decision by the Committee.

Section 3.(e) Reports. -- In addition to the report required under subsection (b) of this section, the Committee shall submit the following reports:

(1) To the 2001 General Assembly, upon its convening:
    a. A progress report on the development of the Plan required by this section; and
    b. An outline of an implementation process for downsizing the four State psychiatric hospitals.
(2) To the Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services and to the Joint Appropriations Committees on Health and Human Services, by October 1, 2001, and March 1, 2002, progress reports on the development and implementation of the Plan.
(3) Interim reports on the development and implementation of the Plan to:
    a. The 2001 General Assembly, by May 1, 2002. The report shall include legislative action necessary to

continue the implementation of changes to the governance, structure, and financing of the State mental health system as recommended by the Committee in its January 2001 report to the General Assembly.

b. The 2003 General Assembly, upon its convening.

c. The 2003 General Assembly, by May 1, 2004. The report shall include legislative action necessary to continue phased-in implementation of the Plan.

(4) To the 2005 General Assembly, upon its convening, a final report on the Plan for Mental Health System Reform.

Section 4. Oversight Committee Appointments. -- The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall make appointments to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services established under this act not later than 30 days from the date of adjournment sine die of the 1999 General Assembly. The Committee shall convene its first meeting not later than 15 days after all members have been appointed.

Section 5. Department of Health and Human Services Reports. -- On or before October 1, 2000, and on or before March 1, 2001, the Department of Health and Human Services shall report to the Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services and to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the status of the Department's reorganization efforts pertaining to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. The report shall also include efforts underway by the Department to better coordinate policy and administration of the Division of Medical Assistance with policy and administration of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

Section 6. Effective Date. -- This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Became law upon approval of the Governor at 2:55 p.m. on the 5th day of July, 2000.

S.B. 1288 **SESSION LAW 2000-84**

AN ACT TO PERMIT THE CITY OF CHARLOTTE AND THE TOWNS OF CORNELIUS, DAVIDSON, HUNTERSVILLE, MATTHEWS, MINT HILL, AND PINEVILLE TO ENGAGE IN CONDITIONAL ZONING.

The General Assembly of North Carolina enacts:

Section 1.(a) In addition to other types of zoning districts permitted by G.S. 160A-382, the City Council may provide for the establishment of conditional zoning districts, including parallel

conditional zoning districts. For purposes of this act, a "conditional zoning district" shall be defined as a zoning district in which the development and use of the property included in the district is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. "Parallel conditional zoning district" shall mean a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general use district having a parallel designation or name. In contrast to conditional use district or special use district zoning, conditional zoning shall not require the issuance of a conditional use or special use permit or permitting process apart from the establishment of the district and its application to particular properties. Rules, regulations, and conditions applicable to any conditional zoning district need not be uniform in all respects for all properties within the same classification of conditional zoning district but may differ based on the unique aspects of each conditional zoning district development, site, and surrounding area.

Section 1.(b) Property may be rezoned to a conditional zoning district only in response to and consistent with a petition of the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan and supporting information that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district.

Section 1.(c) Conditional zoning decisions shall be made in consideration of identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.

Section 1.(d) Before a public hearing may be held on a petition for conditional zoning, the petitioner must file in the Office of the City Clerk a written report of at least one community meeting held by the petitioner. Notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by city policy. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one

meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this subsection shall be considered by the City Council but shall not be subject to judicial review.

Section 1.(e) Conditional zoning decisions under this act are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions.

Section 1.(f) Except as specifically modified by this act, the procedures to be followed by the City Council in reviewing, granting, or denying any petition for conditional zoning shall be the same as those established for general use district zoning petitions under Article 19 of Chapter 160A of the General Statutes.

Section 1.(g) The City Council may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the City Council holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing and no valid protest petition under G.S. 160A-386 was filed. If a valid protest petition under G.S. 160A-386 has been filed against a zoning petition which would otherwise have been scheduled for a public hearing during the period beginning on the first day of October prior to a municipal general election, but prior to the new City Council taking office, then the public hearing on such petition and any decision on such petition shall both be postponed until after the new City Council takes office.

Section 2. This act applies only to conditional zoning petitions filed on or before August 31, 2001. Notwithstanding the foregoing, this act shall not apply to conditional zoning petitions that were approved or denied by the City Council prior to April 17, 2000, and shall not affect any rezoning case that is the subject of pending litigation.

Notwithstanding the foregoing, petitions seeking either conditional district rezoning or conditional use district rezoning which were pending and not yet decided as of April 17, 2000, may be treated by the city as petitions for conditional zoning under this act. Such petitions need not be refiled, but all other processes spelled out in this act, including the mandatory neighborhood meeting and report and a new public hearing, must be followed as to such petitions.

Section 2.1. Chapter 1283 of the 1973 Session Laws and Chapter 488 of the 1983 Session Laws are repealed as to the City of Charlotte and the Town of Matthews only.

Section 3. This act applies to the City of Charlotte and the Towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill, and Pineville only.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

Became law on the date it was ratified.

S.B. 1302 **SESSION LAW 2000-85**

AN ACT TO ASSIST CABARRUS COUNTY WITH THE EXPEDITING OF PUBLIC SCHOOL FACILITIES.

Whereas, Cabarrus County is faced with the critical need for school facilities created by an unusual growth in student population; and

Whereas, the Cabarrus County Board of Education and the Board of Commissioners of Cabarrus County have jointly approved and funded a School Facilities 2000 building program; and

Whereas, the Cabarrus County Board of Education, faced with the critical need for school facilities, has implemented a model facilities plan using a repetitive design approach to design school facilities that are educationally effective and economically efficient; and

Whereas, the Cabarrus County Board of Education desires to explore alternative approaches to expedite the construction of school facilities that could assist in meeting the critical need for school facilities; and

Whereas, the General Assembly reaffirms its commitment to enhance public education and to encourage innovation by public officials in meeting the critical need for school facilities; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, the Board of Commissioners of Cabarrus County and the Cabarrus County Board of Education may jointly select and negotiate with separate-prime contractors to build school buildings using the repetitive design approach if the Board of Commissioners of Cabarrus County and the Cabarrus County Board of Education jointly determine that using the selection and negotiations processes instead of competitive bidding will expedite the project, create an effective construction team, and control costs, quality, and schedule.

Section 2. This act shall apply to construction of up to five schools.

Section 3. This act is effective when it becomes law and expires on June 30, 2005.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

Became law on the date it was ratified.

S.B. 1418 **SESSION LAW 2000-86**

AN ACT TO PROVIDE FOR DIRECT ELECTION OF THE MAYOR OF YANCEYVILLE AND FOR THE TOWN MANAGER FORM OF GOVERNMENT FOR THAT TOWN.

The General Assembly of North Carolina enacts:

Section 1. Section 3.4 of the Charter of the Town of Yanceyville, being Chapter 501 of the 1985 Session Laws, reads as rewritten:

"Sec. 3.4. **Selection of Mayor; term of office.** The Mayor shall be ~~appointed by the Town Council from among its own membership~~ elected by the qualified voters of the Town in 2001 and biennially thereafter for a two-year term. The Mayor shall have the right to vote on all questions that come before the Council, but shall have no right to break a tie vote in which he participated."

Section 2. Effective with the organizational meeting after the 2001 municipal election, Section 3.1 of the Charter of the Town of Yanceyville, being Chapter 501 of the 1985 Session Laws, reads as rewritten:

"Sec. 3.1. **Structure of governing body; number of members.** The governing body of the Town of Yanceyville is the Town Council, which has ~~five~~ four members."

Section 3. Section 3.3 of the Charter of the Town of Yanceyville, being Chapter 501 of the 1985 Session Laws, reads as rewritten:

"Sec. 3.3. **Term of office of Council members.** ~~Until members are elected in accordance with this section, the Town Council shall consist of the three members of the Yanceyville Sanitary District Board, and two other persons appointed by those three members at the Town Council's first meeting in July, 1986. The two persons on the Yanceyville Sanitary District Board whose terms expire in 1986 shall serve until the 1987 municipal election. The person on the Yanceyville Sanitary District Board whose term expires in 1988 shall serve until the 1989 municipal election. One of the two persons appointed to the Town Council by the three members of the Yanceyville Sanitary District Board shall serve until the 1987 municipal election, and the other shall serve until the 1989 municipal election. The three members of the Yanceyville Sanitary District Board shall designate whom shall serve which term.~~ In the ~~1987~~ 2003 municipal election and quadrennially thereafter, the ~~three~~ two persons receiving the highest numbers of votes shall be elected for four-year terms on the Town Council. In the ~~1989~~ 2001 municipal election and quadrennially thereafter, the two persons receiving the highest numbers of votes shall be elected for four-year terms on the Town Council."

Section 4. Section 5.1 of the Charter of the Town of Yanceyville, being Chapter 501 of the 1985 Session Laws, reads as rewritten:

"Sec. 5.1. ~~Mayor-council~~ **Council-manager plan.** The Town of Yanceyville operates under the ~~mayor-council~~ council-manager plan as provided by ~~Part 3~~ Part 2 of Article 7 of Chapter 160A of the General ~~Statues.~~ Statutes."

Section 5. This act does not affect the term of office of the current Mayor or members of the Town Council of the Town of Yanceyville, except that if in 2001 a member of the Town Council with a term expiring in 2003 is elected Mayor, then effective upon that person taking the oath of office as Mayor, the seat on the Town Council that the Mayor is vacating is abolished so that the size of the council will be four members. If a person who is not a member of the Town Council with a term expiring in 2003 is elected Mayor in 2001, then notwithstanding Section 2 of this act, from the organizational meeting after the 2001 election until the organizational meeting after the 2003 election, the Town Council consists of five members.

Section 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

Became law on the date it was ratified.

S.B. 1443 **SESSION LAW 2000-87**

AN ACT TO ALLOW A NEGOTIATED OFFER AND UPSET BID PROCESS FOR SALE OF THE CURRENT CABARRUS COUNTY SCHOOLS CENTRAL OFFICE AND FOR A DESIGN-BUILD CONSTRUCTION METHOD FOR THE CABARRUS SCHOOL CENTRAL OFFICE AND BUS FACILITY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Chapter 115C or Chapter 143 of the General Statutes, the Cabarrus County Board of Education, with the approval of the Board of Commissioners of Cabarrus County, may do either or both of the following:

(1) Dispose of the current school central office property by a negotiated offer and upset bid method.

(2) Construct a new school central office and bus facility by the design-build method.

Section 2. The actions under Section 1 of this act may be taken either separately or together in one proposal.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

Became law on the date it was ratified.

S.B. 1444 **SESSION LAW 2000-88**

AN ACT TO ALLOW A DESIGN-BUILD CONSTRUCTION METHOD FOR A CONVENTION CENTER IN CABARRUS

COUNTY, AND TO ALLOW LEASE OF PROPERTY FOR A HOTEL.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Chapter 143 of the General Statutes, the City of Concord, the County of Cabarrus, or both, may construct a convention center using the design-build or request-for-proposal method.

Section 2. In leasing property adjacent to or on the convention center property for a hotel and auxiliary purposes, as to the City of Concord, G.S. 160A-272, as amended by Chapter 355 of the 1985 Session Laws, shall be applied by deleting "20 years" and substituting "49 years".

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

Became law on the date it was ratified.

H.B. 1647 **SESSION LAW 2000-89**

AN ACT TO ALLOW THE CITY OF CHARLOTTE TO USE THE PROCEDURES OF CHAPTER 136 OF THE GENERAL STATUTES FOR CONDEMNATION FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN A DEFINED AREA.

The General Assembly of North Carolina enacts:

Section 1. Section 7.81 of the Charter of the City of Charlotte, being Session Law 2000-26, reads as rewritten:

"Section 7.81. **Powers and Procedures.**

(a) Notwithstanding the provisions of G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property to be used for streets and highways, water supply and distribution systems, sewage collection and disposal systems, economic development purposes authorized by law within the territory described in subsection (c) of this section, and airports, the City is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes, as now or hereafter amended; provided further, that whenever therein any reference is made to the State of North Carolina or any agency thereof, such reference shall be deemed to include the City, and whenever therein any reference is made to any official of the state of North Carolina, such reference shall be deemed to include the City Manager; provided further that nothing herein shall be construed to enlarge the power of the City to condemn property already devoted to public use.

(b) The City shall have the power of eminent domain to acquire property to provide housing for low- and moderate-income persons but only to acquire: (i) vacant structures Boarded up as a result of housing code violations; (ii) structures that have been found to contain housing code violations that the property owner has failed or refused

to correct within a reasonable time; and (iii) vacant properties rendered vacant as a result of a housing code enforcement demolition order. Provided that in the exercise of its authority of eminent domain to acquire property to provide housing for low- and moderate-income persons, the City shall follow the procedures prescribed in Chapter 40A of the General Statutes. Vesting of title to the property taken under this subsection, and right to possession shall occur pursuant to the provisions of G.S. 40A-42(b). The City may not file an eminent domain action to acquire property described in clauses (i) or (ii) of this subsection until the property owner has had 150 days from the date of the order finding violations of the City housing code to correct the violations. The Council must adopt a plan to use condemned property for low- or moderate-income housing prior to exercising the powers under this subsection.

(c) The area within which the City of Charlotte is authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes for economic development purposes by subsection (a) of this section is as follows: an area bounded on the east by Berryhill Road, on the south by the Norfolk Southern Railroad, on the north by Wilkinson Boulevard, and on the west by Billy Graham Parkway. The property may be conveyed at private sale as allowed by the exception in G.S. 160A-279(d), but otherwise following the procedures of G.S. 160A-279.

(d) Before the City of Charlotte may use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes for economic development purposes in the area defined in subsection (c) of this section, the City shall designate a not-for-profit corporation to which it may intend to convey the property at private sale as allowed by subsection (c) of this section, and that corporation must demonstrate to the City that the corporation has attempted to negotiate with the property owner in good faith for the purchase of the property.

(e) Before the City of Charlotte may use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes for economic development purposes in the area defined in subsection (c) of this section, the corporation designated under subsection (d) of this section must demonstrate to the City that as long as the use of the property is compatible with the development plan for the area, the corporation has used its best good faith efforts to relocate within the economic development project area any business displaced by the project."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

Became law on the date it was ratified.

H.B. 1728 **SESSION LAW 2000-90**

AN ACT TO REMOVE FROM THE CORPORATE LIMITS OF THE TOWN OF SPRUCE PINE A PARCEL RECENTLY IDENTIFIED AS BEING WITHIN THE TOWN LIMITS THAT HAD NEVER BEEN TREATED AS SUCH.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Spruce Pine are reduced by removing Parcel number 0890-00-61-3155, owned by Mrs. Hortense Biddix.

Section 2. This act becomes effective January 1, 1997.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

Became law on the date it was ratified.

S.B. 1300 **SESSION LAW 2000-91**

AN ACT TO INCORPORATE THE TOWN OF MIDLAND, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Town of Midland is enacted to read:

"CHARTER OF THE TOWN OF MIDLAND.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Midland are a body corporate and politic under the name 'Town of Midland'. Under that name they shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the corporate boundaries of the Town of Midland are as follows:

BEGINNING at a point of the northernmost corner of the property described by the Cabarrus County Tax Maps as Map/PIN 5556-12-4009. Thence in a southwesterly direction along the western boundaries of properties Map/PIN 5556-12-4009, 5556-11-1569, and 5556-01-7367. Continuing directly across Highway 601 to the Highway 601 right-of-way on the northwest property line of the property Map/PIN 5556-00-4725. Continuing in a southeastern direction along the right-of-way that borders Highway 601 to the right-of-way of Sossoman Road near northeast corner of the property. Continuing southwest along the right-of-way to the point of intersection with the property Map/PIN 5556-00-5380. Thence moving west along the southeast property line of Map/PIN 5556-00-

4725 to the point of intersection with the property Map/PIN 5546-90-9409. Thence moving northwest along the southwesternmost boundaries of Map/PIN 5556-00-4725, and Map/PIN 5546-91-7410 to the point where it intersects with the easterly corner of the property Map/PIN 5546-90-2819. Thence west and south along the north and west perimeter of said parcel to the point of intersection with Spring Drive. Continuing directly across Spring Drive to the northeast corner of Map/PIN 5546-80-8682. Thence west along the north boundary and south along the west boundary of said property to its southwest corner. Turn west and go to the southeast corner of Map/PIN 5545-80-5613. Turn south along the westerly property line of Map/PIN 5546-80-6239 and go to its intersection with the northernmost corner of Map/PIN 5545-89-4183. Continuing in a southwestern direction along the westernmost property line of Map/PIN 5545-89-4183 to the intersection of the property Map/PIN 5545-78-6238.

Thence moving in a northwestern direction along the northeastern property lines to the northernmost point of the property Map/PIN 5545-78-6238. Thence southwesterly along the southeast property lines of Map/PINs 5545-78-3569, 5545-78-1244, 5545-78-0052, and 5545-67-8748 to the south corner of Map/PIN 5545-67-8748. Thence northwest to the southeast corner of Map/PIN 5545-67-6519 and continuing west along the southeast property line to the south corner of said parcel. Turn southwest and go to the northernmost corner of Map/PIN 5545-67-3175. Continue southeast along the northeasterly property line of Map/PINs 5545-67-3175, 5545-67-3051, and 5545-66-3858 to the east corner of Map/PIN 5545-66-3858. Turn southwest and follow the northwest property line of Map/PIN 5545-66-4715 to the northwest corner of said parcel. Turn south and follow the west property line of Map/PINs 5545-66-4715, 5545-66-5602, and 5545-66-4494 to the intersection with the northerly property line of Map/PIN 5545-66-2067. Turn southwesterly along the northwesterly property line of Map/PIN 5545-66-2067 to the southeast corner of parcel Map/PIN 5545-56-8171. Thence continue north and then west along said parcel to the northwest corner of Map/PIN 5545-56-8171. Thence northwest across Snowcrest Drive to the north corner of Map/PIN 5545-56-6098. Turn southwest and continue along the east and south property lines of Map/PINs 5545-56-5300, 5545-56-3032, 5545-56-1145 to the east corner of Map/PIN 5545-56-0025. Thence southwest along the east property line of Map/PINs 5545-56-0025, 5545-45-9992, and 5545-45-9642 to the southeast corner of Map/PIN 5545-45-9642. Turn west and continue along the Map/PIN 5545-45-9642 property line to the intersection with the property line of Map/PIN 5545-45-6701.

Thence continuing southwest along the easternmost property lines of Map/PINs 5545-45-6701, and 5545-45-1648 to the southeasternmost corner of the property. Thence continuing southwest along the west property lines of Map/PINs 5545-45-4280 and 5545-35-7453. Thence continuing southwest 65 feet thence in a western direction across Troutman Road to the northeastern corner of Map/PIN 5545-34-9832.

Thence continuing in a northwest direction to the northwest corner of the property. From that corner of the property continue southwest along the northwest property lines of Map/PIN 5545-34-9832 and 5545-34-8782 to the southwest corner of Map/PIN 5545-34-8782.

Thence continue southeast to the northwestern corner of property Map/PIN 5545-34-8423. Thence continue southwest along the property line to the southwest corner of the property. Thence continue westerly and southerly along Map/PIN 5545-34-6124 to the intersection with Map/PIN 5545-34-2199. Thence continue westerly along the southerly property line of Map/PINs 5545-34-3410 and 5545-24-9440 to the northwest corner of property Map/PIN 5545-24-8197.

Thence continuing in a southwestern direction to the southwesternmost corner of Map/PIN 5545-24-8197. From that corner continue in a southeast direction to a point where the property line intersects the property line of property Map/PIN 5545-33-0983. At that point continue in a western direction to the westernmost corner of Map/PIN 5545-33-0983.

From that point continuing in a northwestern direction along the southern property line of Map/PIN 5545-24-5291 to its southwest corner. Then turn southwest and continue along the easterly and then northwest along the southeasterly property line of Map/PIN 5545-23-1979 to the northernmost corner of Map/PIN 5545-13-9685. Turn southwest and go to the westernmost corner of said property. Cross directly over an unnamed private road to the southernmost corner of Map/PIN 5545-13-6890. Proceed southwest along the southeast property line of Map/PINs 5545-13-3599 and 5545-13-0296 to the point of intersection with the east property line of Map/PIN 5545-02-7867. Go north on the east property line of said parcel to the southeast corner of property Map/PIN 5545-03-6194.

Turn southwest and proceed along the south and west property line of said parcel to the northernmost corner of Map/PIN 5545-02-5755. Thence southwest along the southeast property line of Map/PIN 5545-02-2876 to the northernmost corner of Map/PIN 5545-02-1533. Proceed along the northeast property line to the southeast corner of said parcel. Turn southwest and proceed along the southeast property line of Map/PINs 5545-02-1533 and 5535-92-8388 to the south corner of Map/PIN 5535-92-8388. Cross directly over Bethel Church Road to the east corner of Map/PIN 5535-92-5207. Continue along the southeast property line of Map/PIN 5535-92-5207 to the westernmost corner of Map/PIN 5535-91-6926. Turn southeast following the property line of Map/PIN 5535-91-6926 to the south corner of property Map/PIN 5545-02-6926. Continue southeast from that corner to the southwest corner of Map/PIN 5545-02-5551 and then east along said property line to the western right-of-way of Bethel Church Road.

Thence continue southeast along the western right-of-way of Bethel Church Road to the north property line of Map/PIN 5545-00-3369. Thence continue southwest to the northerly northwest corner of said

property. Thence continue southeast along the property line to the northeastern corner of property Map/PIN 5545-00-3704. Thence continue west-southwest along the north property lines of Map/PINs 5545-00-3704 and 5535-90-9617 to the northwest corner of Map/PIN 5535-90-9617. From that corner continue south along the property line to the southwest corner of the property. Thence continue northeast to the point of intersection with the westerly property line of Map/PIN 5545-00-3369. From that point continue south along said property line to the southerly southwest corner of the property Map/PIN 5545-00-3369. Thence continue southwest along the northerly property lines of Map/PINs 5534-99-8401, 5534-99-3460, 5534-99-2451, 5534-99-1410, and 5534-89-9430 to the northwest corner of the property Map/PIN 5534-89-9430. Thence move south to the northerly right-of-way for NC Highway 24/27. Thence continue west to the intersection with the property line of Map/PIN 5535-80-5534. Thence continue north then northwest to the northwest corner of the property. Thence continue southwest along the northerly property lines of the properties Map/PINs 5535-80-1414 and 5535-70-5934 to the northwest corner of Map/PIN 5535-70-5934.

Thence continue southeast to the northern corner of property Map/PIN 5535-70-1627. From that point continue southwest along the property line to the southeastern corner of property Map/PIN 5535-60-8678. Thence continue north and west along said property line around to the west corner of Map/PIN 5535-60-8678 and then southwest across Sam Black Road to the southeast corner of Map/PIN 5535-60-3559. From that point continue north along the property line to the north corner of Map/PIN 5535-50-3559. Thence proceed southwest along the easterly property line of Map/PIN 5535-50-4455 to its point of intersection with the northerly right-of-way for NC Highway 24/27.

Turn west along the NC Highway 24/27 right-of-way to its point of intersection with the property line of Map/PIN 5534-49-5492. Continue northwest to the north corner of said property. Cross directly over property Map/PIN 5535-50-4455 to the southerly northeast corner of Map/PIN 5534-49-4506. Proceed northwest along the northeast property lines of Map/PINs 5534-49-4506 and 5534-49-3677 to the northernmost corner of Map/Pin 5534-49-3677. Thence turn southwest and thence southeast to the southwest corner of said parcel. Continue southeast along the property line of Map/PINs 5534-49-4506 and 5534-49-4415 to a point of intersection with the northerly right-of-way for NC Highway 24/27.

From that point continue west along the northerly NC Highway 24/27 right-of-way to the western right-of-way of Flowes Store Road. Thence continue southeast along the west right-of-way of Flowes Store Road and Old Camden Road to the point of intersection with the southeasterly property line of property Map/PIN 5524-97-8018. Thence go northeast along the property line to the southeast corner of said parcel. Thence continue southeast across Old Camden Road to the southwestern corner of property Map/PIN 5534-07-8047. Continuing

southeast along the southern property line of the said property and the property line of Map/PIN 5534-07-9085 to the southeastern corner of Map/PIN 5534-07-9085. Thence continue northeast along the northwesterly property line of Map/PIN 5534-17-6044 to the northernmost corner of the property. Thence north along the westerly property line of Map/PIN 5534-27-4832 to the westerly northwest corner of said property. Thence northeast along property lines to the northwest corner of Map/PIN 5534-28-2266. Thence southeast and northeast along the property line to the southeast corner of said parcel. Thence continue along the northeasterly property lines of Map/PINs 5534-28-2266, 5534-28-1414, and 5534-28-1507 to the northeast corner of Map/PIN 5534-28-1507. Thence cross Ritchie Road to the northwestern corner of property Map/PIN 5534-28-8371. Thence continue east along the said property line to the northerly northeast corner. Thence continue northwest along the westerly property line of property Map/PIN 5534-37-8848 to the westernmost corner of the property then northeast along the property line to the point of intersection with the southerly right-of-way for NC Highway 24/27. Thence continue along the right-of-way to the west property line of Map/PIN 5534-38-6988.

From that intersection continue south to the southwestern corner of the property. Thence continue southeast to the southeastern corner and then north to the right-of-way on the southern side of NC Highway 24/27. Thence continue east along the right-of-way to the west property line of Map/PIN 5534-49-0076. Continue south to the southwest corner of the parcel, thence continue southeasterly along the southerly property lines of Map/PINs 5534-49-0076 and 5534-49-4044 to the southernmost corner of Map/PIN 5534-49-4044. Thence continue northeast along the property line to the southwestern corner of Map/PIN 5534-49-8018. From that corner continue east to the southeastern corner of the said property and thence north to the right-of-way on the south side of NC Highway 24/27. Thence continue east along the right-of-way to the east property line of property Map/PIN 5534-68-1909. Thence continue southwest along the property line to the southeastern corner of Map/PIN 5534-68-1909. Thence continuing northeast along the south boundaries of Map/PINs 5534-69-4031, 5534-69-7102, and 5534-69-7183 to the southeast corner of Map/PIN 5534-69-7183 and thence north along the property line to the right-of-way along the south side of NC Highway 24/27. From that point continue east along the right-of-way to the intersection with the west right-of-way of Sam Black Road. Thence continue southeast along the right-of-way on the west side of Sam Black Road to the point of intersection with the northeast property line of property Map/PIN 5534-78-8739. Thence continue northwest to the northwestern corner of the property then southwest to the southwestern corner of the property.

Thence continue southeast along the property line to the southeastern corner of the property. Then cross Sam Black Road to the southwest corner of Map/PIN 5534-88-3986. Continue along the southerly

property line of Map/PIN 5534-88-3986 to the southernmost corner of the property. Thence continue southeast along the southwest property line of Map/PIN 5534-97-1831 to the southern corner of the said property. Thence continuing southeast along the northeast property line of Map/PIN 5534-96-1653 to the southeastern corner of the property. Thence continuing southeast along the northeast property line of Map/PIN 5534-96-2168 to the southeast corner of said property. Thence continue southwest along the property line to the southwest corner of Map/PIN 5534-96-2168. Turn southeast and follow the southwest property lines of Map/PINs 5534-85-8783 and 5534-85-6566 to the south corner of Map/PIN 5534-85-6566. Cross directly over Ben Black Road to the northernmost corner of property Map/PIN 5534-85-4281. Thence continue southwest along the northwest property line to the southwest corner of the property. From that corner of the property continue southeast across the Norfolk Southern Railway right-of-way to the northwest corner of Map/PIN 5534-84-6486. Follow the Norfolk Southern Railway right-of-way to its point of intersection with the northerly east line of the property Map/PIN 5534-84-6486. Thence continue along the eastern property lines of Map/PIN 5534-84-6486 to the southerly southeast corner of the property. Thence continue west-northwest along the southern property line to the westernmost corner of said property. From that corner continue southwest along the southeast property line of Map/PIN 5534-75-7521 to the southernmost corner of the property. Thence continue southwest to the southernmost corner of the property Map/PIN 5534-64-2431. From that point continue northwest along the southwest property line of said property and continue along the northeast property line of Map/PIN 5534-54-4074 to the northernmost corner of property Map/PIN 5534-54-4074.

Thence south along the property line of property Map/PIN 5534-54-1462 to the southeastern corner of the property. Thence continue along the southern property line to the southwestern corner of the property. From that point continue southwest along the west side of Map/Pin 5543-43-8793 to the right-of-way of Sleepy Hollow Road on the northern side. Thence continue northwest along the right-of-way to its intersection with the west side of property Map/PIN 5534-44-7569. Continue along the southwesterly property lines of Map/PIN 5534-44-7569 to the north corner of Map/Pin 5534-44-3371. From that point continue southwest along the northwest property line of Map/Pin 5534-44-3371 to the right-of-way of Sleepy Hollow Road along the northern side of the road. Thence continue west-northwest along the right-of-way to the point of intersection with Map/PIN 5534-34-3396. Turn north-northwest and follow said property line to the northerly southwest corner of that parcel. Follow the west and south property lines of property Map/PIN 5534-35-6533 to its point of intersection with the Norfolk Southern Railway right-of-way. From that intersection continue across the Norfolk Southern track to the Norfolk Southern Railway right-of-way along the northern side of the rail line. Thence continue westerly along the right-of-way to its intersection with

the easterly property line of Map/PIN 5534-15-4291. Thence continue north to the northeast corner of said property. Thence continue west along the property line to the northwest corner of Map/PIN 5534-15-4291. Turn south and follow the westerly property lines of Map/PINs 5534-15-4291, 5534-14-4946, 5534-14-4842, 5534-14-4781, 5534-14-5548, 5534-14-5471, 5534-14-5268, 5534-14-5146, and 5534-13-6874 to the southwest corner of property Map/PIN 5534-13-6874. Thence continue southeast to the southeast corner of said property. From that corner continue north to the northeast corner of the property. Thence continue east along the northern property line of property Map/PINs 5534-23-2783 and 5534-33-1831 to the northern northeast corner of property Map/PIN 5534-33-1831. Thence, proceed south-southwest along the west property line of property Map/PIN 5534-33-3879 to the southwest corner of Map/PIN 5534-33-3879, then travel east-southeast along the southern property line of said parcel to the intersection with property Map/PIN 5534-33-4522. From here turn southwest and proceed along the northwest property line of Map/PIN 5534-33-4522 to the southwest corner of the property.

Thence proceed southeast along the northeastern boundary of property Map/PIN 5534-32-1232 to its easternmost corner. Turn west and follow the boundary of Map/PIN 5534-32-3086 to its westernmost intersection with Map/PIN 5534-31-3478. Follow the northern border of Map/PIN 5534-31-3478 east to the intersection with Map/PIN 5534-31-5848. Turn south and follow the property line of property Map/PIN 5534-31-5848 to its southeast corner. Turn southeast and follow the northeastern border of the property Map/PIN 5534-41-0295 to its intersection with the west right-of-way of Cabarrus Station Road. Turn southwest and follow the right-of-way to its intersection with the northeasterly property line of Map/PIN 5534-40-2825. Turn northwest and follow said property line to its northern corner, thence southwest to its western corner. Now follow the property line for property Map/PIN 5534-40-2825 back to the westerly right-of-way for Cabarrus Station Road.

Continue southwest along said right-of-way until you meet the northeastern property line of Map/PIN 5534-30-8212. From here, turn northwest and go to the north corner of said parcel. Turn southwest and follow the property line to its western corner. Turn southeast and go to the north corner of Map/PIN 5533-39-6802. Turn southwest and follow the property lines of Map/PINs 5533-39-6802 and 5533-39-4605 respectively. Turn southeast at the westernmost corner of Map/PIN 5533-39-4605 and go to the north corner of property Map/PIN 5533-39-1416. Turn southwest and follow the property line of Map/PIN 5533-39-1416 west then south to the Cabarrus Station Road right-of-way.

Follow the northwesterly right-of-way of Cabarrus Station Road southwest until you come to its intersection with the property line of Map/PIN 5533-18-9661. Turn northwest and follow this line until you reach the northeast corner of the parcel. Turn southwest and travel

along the westernmost southeast property line of Map/Pin 5533-29-4326 to the northwest corner of Map/PIN 5533-18-3388. From here, turn southeast and follow the property line for Map/PIN 5533-18-3388 until you reach the southwest corner of the property.
Cross directly over Cabarrus Station Road to the northwest corner of Map/PIN 5533-17-8801. Then go southeast along the property line to the point of intersection with the southwesterly right-of-way of Cabarrus Station Road. Travel northeast along the right-of-way until you reach the northeast property line of Map/PIN 5533-17-9887. Turn southeast and go to the intersection of Map/PIN 5533-27-2838 and the Cabarrus County Boundary. Continue southeast along the Cabarrus County Boundary to its intersection with the southeast property line of said property. From here, turn northeast and go along the northwest property line of Map/PIN 5533-27-8192 to the northeast corner of Map/PIN 5533-27-8192. Continue traveling northeast along the northwest property lines of Map/PINs 5533-37-3408 and 5533-48-0035 until you reach the northern corner of Map/PIN 5533-48-0035. Turn southeast and follow this property line to the intersection with Map/PIN 5533-47-7785. From here, turn northeast and follow the property line of Map/PIN 5533-47-7785 until you reach the northwest corner of Map/PIN 5533-57-4817. Turn southeast and follow this property line until you reach the right-of-way for the cul-de-sac on Forestbluff Drive. Continue following around the west side of the right-of-way until reaching Map/PIN 5533-57-5427. Turn southwest and follow the property line to the intersection with Map/PIN 5533-57-1174. Turn east and follow the property line of Map/PINs 5533-57-5427 and 5533-57-7516 to the intersection with Map/PIN 5533-57-7151. Turn south and follow this property line to the intersection with the Ben Black Road right-of-way.
From here, turn southwest and travel along the northerly Ben Black Road right-of-way for 727 feet. Turn southeast to the northwest corner of Map/PIN 5533-55-4997. Turn south and follow the property line of Map/PIN 5533-55-4997 until you meet Map/PIN 5533-55-7467. Now turn northeast and follow the Map/PIN 5533-55-7467 northwest property line until you meet Map/PIN 5533-66-0296. Turn southeast and travel along the property lines of Map/PINs 5533-66-0296 and 5533-66-2076 to the southern corner of Map/PIN 5533-66-2076. Turn northeast and follow the northwesterly property lines of Map/PIN 5533-76-5268 around to the north corner of Map/PIN 5533-76-2656. Cross directly over Ben Black Road to the south property line of Map/PIN 5533-77-2327.
Turn northeast and go to the southeast corner of Map/PIN 5533-77-2327. Turn northwest and go to the north corner of said property. From here, go north-northeast along the eastern borders of Map/PINs 5533-78-1051 and 5533-78-1271. At the northeast corner of 5533-78-1271 turn northwest and follow the southern boundary of Map/PIN 5533-68-6765 until you reach the Forestbluff Dr. right-of-way. Turn southwest and follow the Forestbluff Dr. right-of-way to its intersection with Map/PIN 5533-68-0070. From here, turn northwest

and travel to the border of Map/PIN 5533-58-3389. Turn northeast and go to the southern corner of Map/PIN 5533-58-9936. Turn northwest and follow the property line of Map/PIN 5533-58-3389 to the end of Waterbury Road. From here, go northeast until you reach the northerly right-of-way for Waterbury Road. Turn west and go until you meet Map/PIN 5533-49-7149. Turn northeast and follow this property line until it intersects with Map/PIN 5533-49-5850. Turn southwest and go to the southern corner of said property. Turn northwest and go until you meet Map/PIN 5533-49-0935, then turn northeast and go to the easternmost corner of the property. From here, turn northwest and go to the Cabarrus Station Road right-of-way. Turn northeast and travel to the southwest property line of Map/PIN 5534-40-1154. From here, turn southeast and go to the southern corner of said property. Turn northeast and go along the southeast property lines of Map/PINs 5534-40-1154 and 5534-40-2371 to the eastern corner of Map/PIN 5534-40-2371. Turn southeast and go along the southwest property line of Map/PIN 5534-40-5408 to the south corner of Map/PIN 5534-40-5408. Turn northeast and go along the property line to the eastern corner of said property. Turn northeast and follow the northern property line for Map/PIN 5534-50-3474 up to its northern corner. Turn north-northwest and follow the eastern border of Map/PIN 5534-51-2593 until you reach the southwest corner of Map/PIN 5534-52-6179. Turn northeast and follow the border of said property until you reach the southerly right of way for Cabarrus Station Road.

Follow the Cabarrus Station Road right-of-way east to the west property line of Map/PIN 5534-72-3682. Turn southeast and follow the boundary of said property around until you meet the Cabarrus Station Road right-of-way again. Continue east on the right-of-way to the southwest edge of Map/PIN 5534-72-6774. Turn southeast and travel along the northeast edge of Map/PINs 5534-71-9823 and 5534-80-9905 to the southern corner of Map/PIN 5534-91-5983. Turn north and go along the property line to the Bethel Avenue Extension right-of-way. Follow the westerly Bethel Avenue Extension right-of-way south to the point of intersection with Map/PIN 5534-91-6180. Turn due north to the point of intersection with the southwest property line of Map/PIN 5544-01-7629. Turn southeast and go to the southwest corner of said property. Turn southwest and follow the west property lines of Map/PINs 5543-29-0546 and 5543-09-5170 to the southwest corner of Map/PIN 5543-29-0546. Turn east and follow the south property line of Map/PIN 5543-29-0546, 5543-29-6374, 5543-29-8440, 5543-39-0670, 5543-39-4530, and 5543-39-4936 to the southeast corner of Map/PIN 5543-39-4936. Cross directly over Map/PIN 5543-37-3491 to the southwest corner of Map/PIN 5543-44-4681. Continue along the south property line of Map/PINs 5543-49-4681, 5544-40-9609 and 5544-50-5735 to the southwest corner of Map/PIN 5544-50-8763.

Follow the western boundary of 5544-50-8763 north to the northwest corner of said property. Turn west and go along the north property

lines of Map/PINs 5544-50-5735 and 5544-40-9609 to the northernmost corner of Map/PIN 5544-40-9609. Turn northeast and go to the easternmost corner of Map/PIN 5544-51-3808. Turn northwest and go to the northerly northeast corner of said parcel. Turn north to the easternmost corner of Map/PIN 5544-42-8481. Go to the westernmost corner of Map/PIN 5544-63-6383. Follow the northwest perimeter of Map/PIN 5544-63-6383 north to the north corner and then southeast until you reach the property's easternmost corner. From here follow the southern border of Map/PIN 5544-83-4451 to the western corner of Map/PIN 5544-83-7180. Turn southwest along the west property line of Map/PINs 5544-92-1669 and 5544-92-0588 to the northwest corner of Map/PIN 5544-92-2309. Turn southeast and follow around the north, east, and south borders of said property until you reach its southwest corner. Turn south and follow the western border of Map/PIN 5544-91-2911 until you reach the centerline of the Norfolk Southern Railway tracks.

From here, cross to the south side of the railroad track to the northwest corner of Map/PIN 5544-91-6017. Follow the southwest border of said property until you reach the centerline of Highway 601. Follow the centerline of Highway 601 south for approximately 2364 feet until you reach a point directly opposite the southwest property line of Map/PIN 5543-89-3040. Turn southeast and go along the southwest property lines of Map/PINs 5543-89-3040 and 5543-88-7716 to the southernmost corner of Map/PIN 5543-88-7716. Turn northeast and follow the boundary of said property to its easternmost corner. Turn northwest and follow the same boundary and the northeast boundary of Map/PIN 5543-89-3040 to the southernmost corner of Map/PIN 5543-89-5201. Turn northeast and follow the boundary of Map/PIN 5543-88-8145 around to the intersection with the northwest corner of Map/PIN 5553-08-6749. Continue east along the northern border of Map/PIN 5553-08-6749 until you reach the Hopewell Church Road westerly right-of-way. Turn southeast and continue following the right-of-way to the northern perimeter of Map/PIN 5553-18-1552. From here, turn southwest and follow the boundary of Map/PINs 5553-08-6749 and 5543-88-8145 until you reach the westernmost corner of Map/PIN 5543-97-0017. Turn southeast and follow the border of Map/PIN 5543-97-0017 to the intersection with Map/PIN 5543-97-6556. At this point, turn northeast and follow the southern boundary of said property to the intersection with Map/PIN 5553-06-9822. From here, follow the eastern border of Map/PIN 5543-96-6459 south to the southwest corner of Map/PIN 5553-06-6441. Turn southeast and follow the south boundary of Map/PIN 5553-06-6441 to its southeast corner. Cross directly over Map/PIN 5553-15-8474 and Hopewell Church Road to the southwest corner of Map/PIN 5553-15-4576. Continue southeast along the property lines of Map/PINs 5553-15-4576 and 5553-15-8474 to the southernmost corner of Map/PIN 5553-15-8474. Turn northeast and follow the perimeter of said property until you reach the easterly Hopewell Church Road right-of-way. Turn northeast and follow the

right-of-way to the southwest border of Map/PIN 5553-16-9800. Turn southeast and follow the northeast border of Map/PIN 5553-24-9675 to the southernmost corner of Map/PIN 5553-26-8196. Turn northeast and follow the northwest boundary of Map/PIN 5553-35-9990 to its northernmost corner. Continue northeast, following the eastern boundary of Map/PIN 5553-38-6833. Continue along the perimeter of said property until you reach the southernmost corner of Map/PIN 5553-29-5443.

From here, turn northwest and follow the northeast border of Map/PIN 5553-18-6976 to the southern corner of Map/PIN 5553-19-6599. Turn northeast and follow the west boundary of Map/PIN 5553-29-5443 to its northernmost corner. Continue north along the northwest border of Map/PIN 5554-20-2483 until you reach Garmon Mill Road. Cross Garmon Mill Road to a point 27 feet west of the southeast corner of Map/PIN 5554-21-2045 on the south property line of said parcel. Turn east and go to the southeast corner of Map/PIN 5554-21-2045, cross over Oak St., and follow the Chaney Road northern right-of-way to the southeast corner of Map/PIN 5554-21-4046. Turn north and follow the western boundary of Map/PIN 5554-31-1263, directly across the Norfolk Southern Railway right-of-way to the west edge of Map/PIN 5554-31-0864, and continue along the west property line of said property and Map/PIN 5554-32-0922 to the west corner of Map/PIN 5554-32-0922. At the intersection with Map/PIN 5554-23-1707, continue northwest along said property's southwest boundary until you reach the northeast corner of Map/PIN 5554-13-6172. Turn west-southwest and follow the south and west boundaries of Map/PIN 5554-13-3760 around until you reach the property's northeasternmost corner. At this point, turn northeast and follow the western boundary of Map/PIN 5554-24-2721 to its northerly northwest corner. Turn northwest and follow the northern border of Map/PIN 5554-16-5399 until you reach the easterly right-of-way of US Highway 601.

Thence continue northeast along the right-of-way on the southeast side of US Highway 601 to its intersection with the southwest border of property Map/PIN 5554-17-6858. Thence continue southeast along the property line to the southeastern corner of said property. From that corner continue northeast along the property line of said property and property Map/PIN 5554-18-6075 to the northeastern corner of Map/PIN 5554-18-6075. Thence continue southeast along the property line of Map/PIN 5554-18-7280 to the southeast corner of said property. From that corner continue northeast along the eastern property line of the property and the property Map/PIN 5554-18-8327 to the northeast corner of 5554-18-8327. Thence continue southeast to the southeast corner of Map/PIN 5554-18-7567.

Thence continue to the southernmost corner of property Map/PIN 5554-29-4168. Turn northeast and follow the northerly property line of Map/PIN 5554-38-7270 around to the southwest corner of Map/PIN 5554-49-7745. Thence continue east along the Map/PIN 5554-49-7745 property line and the property line of Map/PIN 5554-

49-8595 to the southeast corner of the property. Thence continue east along the southern right-of-way of Loving Road to the property line of Map/PIN 5554-58-7874. From that point continue south along the property lines of said property and property Map/PIN 5554-58-2939 for approximately 723 feet to a point directly opposite the southwest corner of Map/PIN 5554-58-3931.

From that point continue east to the southwest corner and then to the southeast corner of property Map/PIN 5554-58-3931. Thence continue north along said property line to the northerly northeast corner of the property. From that corner of the property continue northeast directly across the property of Map/PIN 5554-58-7874 to the southern property line of Map/PIN 5554-59-4334. Thence continue east along the property line to the easterly northeast corner of the property. From that point continue directly across the property Map/PIN 5554-58-7874 to the property line of Map/PIN 5554-59-8365. Thence continue southeast to the southerly southwest corner of Map/PIN 5554-59-8365. Thence continue south to the northwest corner of Map/PIN 5554-69-0079. Thence continue southeast along the property line to the southernmost corner of Map/PIN 5554-69-2254. From that corner continue northeast along the property line to the southwestern corner of property Map/PIN 5554-69-5056. Thence continue southeast along the property lines of said property and property Map/PIN 5554-68-8951 to the southernmost corner of the property Map/PIN 5554-68-8951. Thence continue northeast along the eastern side of the property to the point of intersection with McManus Road. Turn and go east to the intersection with the McManus Road right-of-way.

Thence continue northeast along the right-of-way of McManus Road on the eastern side of the road to the intersection with the south border of property Map/PIN 5555-70-2167. Thence continue east to the southeastern corner of Map/PIN 5555-70-2167 then northeast to the northeasternmost corner and then northwest to the point of intersection with the McManus Road right-of-way. Thence continue northeast along the right-of-way on the eastern side of the road to the southwest property line of property Map/PIN 5555-70-4703. Thence continue southeast along the property line to the southernmost corner of said property and then northerly along the eastern property line to the point of intersection with NC Highway 24/27 southerly right of way. Thence continue directly across the Highway to the southeast corner of property Map/PIN 5555-72-5202. Continue along the southerly property lines of Map/PIN 5555-71-7706 and 5555-71-8321 to the southeast corner of Map/PIN 5555-71-8321.

Thence continue northwest along the eastern boundary to the northeast corner of the property. Thence continuing northwest along the property line of Map/PIN 5555-71-7706 to the northernmost corner of the property Map/PIN 5555-71-7706. Thence continue southwest along the westerly property line of said property and property Map/PIN 5555-71-5202 to the point of intersection with the NC Highway 24/27 right-of-way. Thence continue southwest along the

northern right-of-way of NC Highway 24/27 to the point of intersection with the east property line of Map/PIN 5555-61-8154. Thence continue northerly along the property line of said property to the northernmost corner. From that corner continue southwest along the northwest property line to the point of intersection with the NC Highway 24/27 right-of-way. Thence continue west along the northern right-of-way to the point of intersection with the east property line of property Map/PIN 5555-50-3891.

From that point continue northwest along the eastern property line of Map/PIN 5555-50-3891 to the northernmost corner of the property. Thence continue northeast along the southeast property line of property Map/PIN 5555-51-3993 to the northeastern corner of the property. Thence continue northwest along the northern property line to the northwestern corner of the property and continue southwest along the western property line of the property to the point of intersection with the NC Highway 24/27 right-of-way. Thence continue southwest along the northern right of way to the point of intersection with the property Map/PIN 5555-30-9401. Thence continue northeast along said property line to the northeast corner of the property and then southwest along the property line to the northwestern corner of the property. Thence continue northeast along the east property lines of Map/PINs 5555-30-6464 and 5555-30-8813 to the northeast corner of Map/PIN 5555-30-8813. Thence continue around the perimeter of Map/PIN 5555-30-8813 to the northwest corner of Map/PIN 5555-30-6464.

Cross over Widenhouse Road to the northeast corner of property Map/PIN 5555-30-3368. Thence continue northwest along the northern property line of Map/PIN 5555-30-3368 to the northwestern corner of the property. Thence continue northeast along the southeast property line of Map/PIN 5555-20-7506 to the northeastern corner of the property. From that corner continue northwest along the northern property line to the point of intersection with property Map/PIN 5555-21-3274. Thence continue northeast along the property line of said property to the northeastern corner of the property. From that corner continue west to the northwest corner of the property and continue south to the southwest corner. Cross directly over US Highway 601 to the northeast corner of property Map/PIN 5555-11-2213. Thence continue northwest along the northern property line of said property to the northernmost corner of the property.

Thence continue southwest along the northwest property line of property Map/PIN 5555-01-2134 to the west corner of the property. From that corner continue southwest along the property line of the property Map/PIN 5545-90-6414 to the point of intersection with the property Map/PIN 5545-90-1280. Thence continue northwest to the northwestern corner of said property. From that corner continue southwest along the property line to the southwest corner of Map/PIN 5545-90-1280 then southeast to the point of intersection with property Map/PIN 5544-99-4865. Thence continue southwest along the property line of Map/PIN 5544-99-4865 to the intersection with

Map/PIN 5544-99-0543. Thence continue west along the northern boundary of said property and property Map/PIN 5544-89-8583 to the northwestern corner of Map/PIN 5544-89-8583.

Thence continue south to the intersection with the northerly NC Highway 24/27 right-of-way. Thence continue west along the northern right-of-way of NC Highway 24/27 to the point of intersection with the property Map/PIN 5544-79-6696. Turn north, and follow the western border of Map/PIN 5545-80-6865 to the northeast corner of Map/PIN 5545-71-6954. Turn west and follow the northern border of said property and Map/PIN 5545-71-2774 until you reach the northwest corner of Map/PIN 5545-71-2774. Turn southwest and follow the boundaries of Map/PINs 5545-71-2774, 5545-71-0151, and 5545-60-9722 to the southeast corner of Map/PIN 5545-61-1127. Turn northwest and travel to the southwest corner of Map/PIN 5545-61-1127. Turn northeast and follow the western border of said property to its northwestern corner.

Turn northwest and follow the northern border of Map/PIN 5545-41-9555 until you reach the Jim Sossoman Road right-of-way. Turn northeast and follow the eastern right-of-way to its point of intersection with Map/PIN 5545-62-3629. Turn southeast and follow the southern boundary of Map/PIN 5545-62-3629 to its southeast corner. Turn north and follow the eastern bounds of Map/PINs 5545-62-3629, 5545-62-4814, 5545-62-4978, 5545-63-5135, 5545-53-8663, 5545-63-6465, 5545-63-7640, and 5545-64-1035 to the northeast corner of Map/PIN 5545-64-1035. Turn northwest and follow the border of said property to the Jim Sossoman Road eastern right-of-way.

Turn northeast and follow the eastern right-of-way to the intersection with Map/PIN 5545-74-8667. Turn southeast and follow the southern border of Map/PIN 5545-74-8667 to its easternmost corner. Continue northeast along the southeast border of Map/PIN 5545-84-6783 to its easternmost corner. Turn northwest and follow the east border of Map/PIN 5545-84-6783 to the northeast corner crossing over an unnamed right-of-way to the southeast corner of Map/PIN 5545-85-7344. Continue along the eastern and northern borders of said property until you reach the property's northwest corner. Continue northwest along the northern border of Map/PIN 5545-85-3576 to its northern corner. Turn southwest and go to the southwest corner of said property. When you reach an unnamed right-of-way, turn northwest and follow the right-of-way to the Jim Sossoman Road eastern right-of-way. When you reach the right-of-way for Jim Sossoman Road, turn northeast and follow the eastern right-of-way to its point of intersection with Map/PIN 5545-98-7291.

From this point, travel east along the southern border of Map/PIN 5545-98-7291 until you reach its southeast corner. Turn south and follow the eastern border of Map/PIN 5545-97-7724 and 5555-06-6822 to the southeast corner of 5555-06-6822. Turn southeast and follow the border of Map/PIN 5545-87-4111 southeast and then southwest to the southeast corner. From here, turn east and follow the northeast perimeter of Map/PIN 5555-03-7435 until you reach the

southeast corner of Map/PIN 5555-12-6854. Turn north and follow the easterly property line of Map/PINs 5555-12-6854, 5555-12-6938, 5555-13-5302, 5555-13-4567, 5555-13-4840, 5555-14-4080, 5555-14-4158, 5555-14-4356, 5555-14-1498, 5555-14-4651, 5555-14-3932, and 5555-15-5279 to the northeast corner of Map/PIN 5555-15-5279. Turn southeast, cross the road to the southwest corner of Map/PIN 5555-25-0668, and continue to the southeast corner of Map/PIN 5555-25-0668. Turn northeast and follow the western boundary of Map/PIN 5555-35-9827 to the northernmost corner of Map/PIN 5555-26-7559. Cross Mt. Pleasant Road to the southeast corner of Map/PIN 5555-27-5019. Proceed north along the easterly property line of said parcel and Map/PINs 5555-27-5383 and 5555-27-6647 to the southeast corner of Map/PIN 5555-28-5511.

Continue west along the southern boundary of Map/PIN 5555-28-5511 to its southwest corner. Cross Highway 601 to the southeast corner of Map/PIN 5555-17-6979. Proceed northerly along the easterly property lines of Map/PINs 5555-17-6979, 5555-18-6156, 5555-18-5472, 5555-18-4955, and 5555-19-2451 to the southeast corner of Map/PIN 5555-19-3854. Cross Highway 601 to the northwest corner of Map/PIN 5555-29-0676. Proceed along the west and south borders of the parcel to the southeast corner of said property. Follow the northeast property line of said parcel to the south corner of Map/PIN 5555-29-2721. Continue north on the east property line of Map/PIN 5555-29-2721 to the northeastern corner of said parcel. Turn northwest and follow the border of said property to its northwest corner. Turn northeast and follow the western border of Map/PIN 5555-29-9552 to its northwest corner. Turn west and follow the southern border of Map/PIN 5556-21-3259 back to the easterly US Highway 601 right-of-way. Staying on the east side right-of-way, continuing along Map/Pin 5556-21-3259 northwest then northeast to the intersection of Map/PIN 5556-23-1563. Turn west and follow the southern border of Map/PIN 5556-23-1563 to the Point of Beginning.

This area excludes any area described in Section 1 of S.L. 2000-7.

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Midland shall be the Town Council, which shall have four members, and the Mayor.

"Section 3.2. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council and, except as provided in this section, they shall serve four-year terms. In 2001, the two candidates receiving the highest number of votes shall be elected to four- year terms and the two candidates receiving the next highest number of votes shall be elected to two-year terms. In 2003 and biennially thereafter, two members shall be elected to four-year terms.

"Section 3.3. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 2001

and quadrennially thereafter, the Mayor shall be elected for a term of four years.

"Section 3.4. **Initial Council.** Until the organizational meeting after the initial regular municipal election of 2001, L.W. 'Bunk' Whitley, Joyce Beatty, and Dan Short are hereby appointed as members of the Town Council. Until that time, the Council shall consist of three members. Until the organizational meeting after the initial regular municipal election of 2001, the Town Council shall choose from among its members one person to serve as Mayor.

"CHAPTER IV.

"ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"CHAPTER V.

"ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Midland shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes."

Section 2. From and after the effective date of this act, the citizens and property in the Town of Midland shall be subject to municipal taxes levied for the year beginning July 1, 2000. For that purpose the Town shall obtain from Cabarrus County a record of property in the area herein incorporated which was listed for taxes as of January 1, 2000. The Town may adopt a budget ordinance for fiscal year 2000-2001 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2000-2001, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360.

Section 3. The Cabarrus County Board of Elections shall conduct an election on November 7, 2000, for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Midland the question of whether or not the area shall be incorporated as the Town of Midland. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

Section 4. In the election, the question on the ballot shall be:

"[ ]FOR [ ]AGAINST

Incorporation of the Town of Midland."

Section 5. In the election, if a majority of the votes are cast "For incorporation of the Town of Midland", Sections 1 through 2 of this act shall become effective on the date that the Cabarrus County Board of Elections certifies the results of the election. Otherwise, those sections shall have no force and effect.

Section 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 2000.

Became law on the date it was ratified.

S.B. 1364 **SESSION LAW 2000-92**

AN ACT TO AUTHORIZE THE CABARRUS BOARD OF EQUALIZATION AND REVIEW TO MEET AFTER ITS FORMAL ADJOURNMENT.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of S.L. 1999-353 reads as rewritten:

"Section 3. Section 2 of this act applies only to ~~Stokes County.~~ Cabarrus and Stokes Counties."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 2000.

Became law on the date it was ratified.

S.B. 1481 **SESSION LAW 2000-93**

AN ACT TO AMEND THE LEGAL DESCRIPTION OF THE REAL PROPERTY LOCATED WITHIN THE COUNTIES OF DURHAM AND WAKE, AS SET FORTH IN SECTION 2, CHAPTER 435, SESSION LAWS OF 1985, AND AS AMENDED BY SECTION 4, CHAPTER 841, SESSION LAWS OF 1989.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 435 of the Session Laws of 1985 (as amended by Section 4 of Chapter 841 of the Session Laws of 1989) is amended by changing the phrase "the following described territory" to the phrase "either of the following described territories" and adding at the end of the section the following:

"As shown on a survey entitled "Survey for Biogen Inc.," dated April 11, 1995, prepared by Greenhorne & O'Mara, Inc., and recorded in Plat Book 138, Page 167, Durham County Registry and Book of Maps 1997, Page 1316, Wake County Registry, and being that property described in that deed recorded in Book 1741, Page 937, Durham County Registry, and in Book 5209, page 771, Wake County Registry, and more particularly described as follows: Beginning at an iron pipe set in the southern right-of-way of Davis Drive, said iron pipe being located South 82 30'21" East 676.43 feet from an existing angle iron, the original northwest corner of W.R. O'Briant Property as shown on a plat recorded in Book of Maps 1960, Page 64 of the Wake County Registry, and in Plat Book 40, Page 80 of the Durham County Registry; running thence from said beginning point South 82 30'21" East 988.66 feet to an existing iron pipe, said pipe being located in the southeastern property line of the Research Triangle Foundation of

North Carolina property described in Book 148, Page 331, Durham County Registry, and in the western property line of The Davis Park Associates, Ltd. property as shown on Plat Book 116, Page 116, Durham County Registry; thence along The Davis Park Associates, Ltd. western property line South 07 02'02" West 579.40 feet to an existing iron pipe located in the northern property line of the Davis Drive Associates No. 2 property as shown on Plat Book 116, Page 115, Durham County Registry; thence along the Davis Drive Associates No. 2 northern and western property lines the following two calls: North 78 07'33" West 331.59 feet to an existing 4-inch channel iron; thence South 09 05'35" West 721.58 feet to an existing iron pipe located in the northwest corner of the property owned now or formerly by Richard J. Thompson, et al as described in Book 2750, Page 748, Wake County Registry; thence along the Thompson, et al, western property line South 09 02'51" West 1,355.84 feet to an existing 4-inch channel iron located in the northern property line of the Research Triangle Foundation of North Carolina property as described in Book 1670, Page 239, Wake County Registry; thence along the northern line of the Research Triangle Foundation of North Carolina property North 78 10'21" West 1,087.20 feet to an existing ½ inch steel rod located in the northeast corner of the Biogen Inc. property as shown on Book of Maps 1994, Page 1560, Wake County Registry; thence along the Biogen Inc. northern property line the following two calls: North 78 10'21" West 56.35 feet to an existing angle iron; thence North 80 01'56" West 156.55 feet to an existing iron pipe located in the eastern property line of the Research Triangle Foundation of North Carolina property as described in Book 1670, Page 239, Wake County Registry; thence along the eastern line of the Research Triangle Foundation of North Carolina property North 07 49'13" East 770.98 feet to a new iron pipe; thence North 55 22'58" West 496.22 feet to a new iron pipe located in the southern right-of-way of Davis Drive; thence along the southern right-of-way of Davis Drive North 34 37'02" East 902.55 feet to an existing rebar and cap North Carolina Department of Transportation right-of-way marker; thence North 33 12'21" East 84.07 feet to an iron pipe set; thence North 33 12'21" East 207.08 feet to an iron pipe set; thence North 46 18'46" East 265.38 feet to an iron pipe set; thence North 59 54'40" East 270.77 feet to an iron pipe set; thence North 71 20'59" East 233.29 feet to an iron pipe set, the point and place of BEGINNING, containing 84.654 acres.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 2000.

Became law on the date it was ratified.

S.B. 1286 **SESSION LAW 2000-94**

AN ACT TO ALLOW RECALL ELECTIONS IN THE CITY OF RANDLEMAN.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Randleman, being Chapter 209 of the Private Laws of 1905, is amended by adding a new section to read:

"Section 3.1. **Recall of Officials by the People.**

(a) The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent.

(b) Prior to circulating any petition under this section, it must be registered with the City Clerk, and the petition with signatures must be submitted to the City Clerk within 30 days of that date in order to be considered.

(c) The procedure to effect the removal of an incumbent of an elective office shall be as follows: a petition demanding an election of a successor of the person sought to be removed and signed by at least thirty percent (30%) of the total number of registered voters in the City shall be filed with the City Clerk. In order to be effective, the petition when filed shall list both the name of the officer to be removed and the cause for removal. The cause for removal must relate to the misfeasance, malfeasance, or nonfeasance of the officer, or for personal conduct that brings the office into disrepute. The superior court shall have jurisdiction of issues relating to whether cause is sufficient.

(d) The signatures to the petition need not be on one petition paper, but each signer shall add to the signature that person's residence address. One or more of the signers of the petition shall make oath before an officer competent to administer oaths that the statements therein made are true, as that person believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

(e) Within 10 days from the date of filing such a petition, the City Clerk shall examine and from the records of the board of elections determine whether the petition is signed by the required number of qualified electors, and the Clerk shall attach to the petition a certificate showing the results of such examination. If by the Clerk's certificate, the petition is shown to be insufficient, it may be amended within 10 days from the date of the certificate. The Clerk shall, within 10 days after such amendment, examine the amended petition in the same fashion. If the Clerk's certificate shows the petition to be insufficient, it shall be returned to the person filing the same, but such return shall not prevent the filing of a new petition if it is otherwise allowed by this section. If the petition shall be deemed to be sufficient, the Clerk shall without delay submit the same to the board of elections which conducts elections for the City.

(f) If the petition shall be found to be sufficient, the board of elections which conducts elections for the City shall set a date for holding an election for the remainder of the unexpired term in the same manner as provided in this Charter and in Chapter 163 of the General Statutes of North Carolina for regular municipal elections, such election to be held not greater than 90 days from the date of the

Clerk's certificate to the board of elections that a sufficient petition is filed. Candidates' names shall be placed on the ballot, the election held, and the results canvassed, under the same rules, conditions, and regulations as are prescribed for municipal elections under this Charter and Chapter 163 of the General Statutes of North Carolina. Opening and closing dates for candidate filing shall be set by the board of elections, and notice of the election shall be published at least three days prior to the opening of candidate filing.

(g) The successor of any officer so removed shall hold office for the unexpired term of the predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless that incumbent requests otherwise in writing, the board of elections shall place the incumbent's name on the official ballot without filing. At the election, if some other person than the incumbent is elected, the incumbent shall thereupon be deemed removed from the office upon the taking of the oath of office of the successor.

(h) In case the person elected should fail to take the oath of office within 10 days after certification of the election returns, the office shall be deemed vacant, and in that event, the office shall be filled for the remainder of the unexpired term by the Board of Aldermen, but the officer removed shall not be eligible to election by the board, and the person chosen by the Council shall be subject to recall as other elected officials. If the incumbent receives the most votes in the election, the incumbent shall continue his office.

(i) Such method of removal shall be cumulative and additional to any other method provided by law. In the event any officer is recalled, the elected successor shall be subject to recall in the same manner as the originally elected officer.

(j) Time limitation. No person shall be subject to recall if the petition is filed within six months of the person having taken office, within six months of a recall election, or within six months of the expiration of the term."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law on the date it was ratified.

S.B. 1354 **SESSION LAW 2000-95**

AN ACT TO AUTHORIZE MECKLENBURG COUNTY TO MATCH FEDERAL INDEPENDENT LIVING FUNDS IN THE EVENT THE STATE DOES NOT PROVIDE MATCHING FUNDS.

The General Assembly of North Carolina enacts:

Section 1. If the State does not provide State funds to match federal funds for the Independent Living Program, then a county board of commissioners may use county funds to match federal funds for the Independent Living Program.

Section 2. This act applies only to Mecklenburg County.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law on the date it was ratified.

S.B. 1362 **SESSION LAW 2000-96**

AN ACT RELATING TO THE DISPOSAL OF PERSONAL PROPERTY BY GASTON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-266(c) reads as rewritten:

"(c) A city council may adopt regulations prescribing procedures for disposing of personal property valued at less than ~~five thousand dollars ($5,000)~~ fifty thousand dollars ($50,000) for any one item or group of items in substitution for the requirements of this Article. The regulations shall be designed to secure for the city fair market value for all property disposed of and to accomplish the disposal efficiently and economically. The regulations may, but need not, require published notice, and may provide for either public or private exchanges and sales. The council may authorize one or more city officials to declare surplus any personal property valued at less than ~~five thousand dollars ($5,000)~~ fifty thousand dollars ($50,000) for any one item or group of items, to set its fair market value, and to convey title to the property for the city in accord with the regulations. A city official authorized under this section to dispose of property shall keep a record of all property sold under this section and that record shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange."

Section 2. This act applies to Gaston County only.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law on the date it was ratified.

S.B. 1447 **SESSION LAW 2000-97**

AN ACT TO MAKE SUNDRY AMENDMENTS CONCERNING THE TOWN OF CHAPEL HILL AND TO EXEMPT THE TOWN OF NEWPORT FROM CERTAIN STATUTORY REQUIREMENTS IN THE ACQUISITION OF A SPECIFIC PIECE OF FIRE EQUIPMENT.

The General Assembly of North Carolina enacts:

Section 1.(a) G.S. 143-135 reads as rewritten:

"*§ 143-135. Limitation of application of Article.*

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed ~~one hundred twenty-five thousand dollars ($125,000)~~ one hundred seventy-five thousand dollars ($175,000) or the total cost of labor on the project does not exceed ~~fifty thousand dollars ($50,000).~~ seventy-five thousand dollars ($75,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

Section 1.(b) This section applies to the Town of Chapel Hill only.

Section 2. Section 2 of S.L. 1997-216, as amended by S.L. 1999-17 and S.L. 1999-181, and as rewritten by Section 48.(c) of S.L. 1999-456, reads as rewritten:

"Section 2.(a) This act applies to the Cities of Charlotte, Fayetteville, Greensboro, High Point, Rocky Mount, and Wilmington, and the Towns of Chapel Hill, Cornelius, Huntersville, and Matthews only.

Section 2.(b) The Town of Chapel Hill may only use the authority granted by this section for violation of statutes or ordinances related to traffic signals."

Section 3.(a) G.S. 160A-301(d) reads as rewritten:

"(d) The governing body of any city may, by ordinance, regulate the stopping, standing, or parking of vehicles in specified areas of any parking areas or driveways of a hospital, shopping center, apartment house, condominium complex, or commercial office complex, or any other privately owned public vehicular area, as well as any private lot used for residential purposes whether or not demarcated as a vehicular area, or prohibit such stopping, standing, or parking during any specified hours, provided the owner or person in general charge of the operation and control of that area requests in writing that such an ordinance be adopted. The owner of a vehicle parked in violation of an ordinance adopted pursuant to this subsection shall be deemed to have appointed any appropriate law-enforcement

officer as his agent for the purpose of arranging for the transportation and safe storage of such vehicle."

Section 3.(b) This section applies to the Town of Chapel Hill only.

Section 4. As a one-time exemption, the Town of Newport may acquire, before February 1, 2001, a certain piece of fire equipment from the Otway Fire and Rescue Department, Inc., in an amount not to exceed one hundred sixty thousand dollars ($160,000), without being subject to the requirements of G.S. 143-129.

Section 5. Section 4 of this act applies to the Town of Newport only.

Section 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law on the date it was ratified.

S.B. 1448 **SESSION LAW 2000-98**

AN ACT TO REMOVE FROM THE CORPORATE LIMITS OF THE TOWN OF HILLSBOROUGH AN AREA PREVIOUSLY ANNEXED BY THE TOWN UNDER THE VOLUNTARY ANNEXATION PROVISIONS OF PART 4 (ANNEXATION OF NONCONTIGUOUS AREAS) OF ARTICLE 4A OF CHAPTER 160A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. The following described property, being approximately 105.63 acres annexed to and made a part of the Town of Hillsborough by Ordinance No. 980310-1, duly adopted by the Board of Commissioners for the Town of Hillsborough on April 14, 1998, all in accordance with the provisions of law applicable to the voluntary annexation of noncontiguous areas set forth in Part 4 of Article 4A of Chapter 160A of the General Statutes, is removed from the corporate limits of the Town of Hillsborough, effective June 30, 2000:

Commencing at the northeast corner of lot 51 of Phase One - Section C "Fox Hill Farm" as shown on plat recorded in Plat Book 74, page 136, Orange County Registry, said corner having NC Grid coordinates: North 858,812.08, East 1,980,350.98, (NAD 83 in feet) and being designated as Point A on the plat: "-Annexation Map - Fox Hill Farm" dated January 22, 1998, as prepared by ENT Land Surveys, Inc., and then running from said corner N 77-48-05 E 296.84 feet to the point and place of BEGINNING. Thence from said point of beginning the following courses and distances:

N 33-02-04 E 200.00 feet to a point and S 56-57-56 E 761.06 feet to a point

N 17-01-12 E 1994.73 feet to a point and S 82-36-08 W 1301.53 feet to a point

N 04-19-00 E 204.24 feet to a point and N 82-36-08 E 1267.48 feet to a point
N 29-15-14 W 1394.92 feet to a point and N 60-44-46 E 200.00 feet to a point
S 29-15-14 E 737.11 feet to a point and N 60-44-46 E 1410.01 feet to a point
S 29-15-14 E 200.00 feet to a point and S 60-44-46 W 1410.01 feet to a point
S 29-15-14 E 564.79 feet to a point and S 73-42-47 E 932.56 feet to a point
S 16-17-13 W 200.00 feet to a point and N 73-42-47 W 874.70 feet to a point
S 17-01-12 W 917.30 feet to a point and S 36-39-05 E 1498.66 feet to a point
S 53-20-55 W 200.00 feet to a point and N 36-39-05 W 1351.59 feet to a point
S 17-01-12 W 917.30 feet to a point and S 22-46-56 E 1598.31 feet to a point
S 33-31-03 E 1039.76 feet to a point and N 89-08-18 E 1306.85 feet to a point

in the center of New Sharon Church Road.

Thence continuing N 89-08-18 E 1141.03 feet to a point
N 45-02-22 E 1932.26 feet to a point and S 44-57-38 E 200.00 feet to a point
S 45-02-22 W 1725.86 feet to a point and N 89-08-18 E 1155.45 feet to a point
S 00-12-52 E 200.01 feet to a point and S 89-08-18 W 1177.25 feet to a point
S 21-15-48 W 2521.31 feet to a point and N 68-44-12 W 200.00 feet to a point
N 21-15-48 E 2440.00 feet to a point and S 89-08-18 W 1188.64 feet to a point

in the center of New Sharon Church Road.

Thence continuing S 89-08-18 W 1337.50 feet to a point
S 62-17-34 W 1024.10 feet to a point and N 27-42-26 W 200.00 feet to a point
N 62-17-34 E 937.27 feet to a point and N 33-31-03 W 890.93 feet to a point
S 82-45-50 W 1491.98 feet to a point and N 07-14-10 W 200.00 feet to a point
N 82-45-50 E 1414.78 feet to a point and N 22-46-56 W 1407.72 feet to a point
N 56-57-56 W 937.00 feet

to the point and place of beginning, and containing 105.63 acres, and being a portion of the property described in Record Book 872 page 513.

Section 2. Taxes on real and personal property within the above-described area due and payable to the Town of Hillsborough for fiscal years up through and including fiscal year 1999-2000 shall

remain due and payable and shall be collected in accordance with applicable provisions of law if not paid in full prior to the effective date of this act. No taxes on the real or personal property within the above-described area shall be due to the Town of Hillsborough for fiscal year 2000-2001 or thereafter unless and until this property is again brought within the corporate limits of the Town of Hillsborough.

Section 3. From and after June 30, 2000, the Orange County zoning district classification applicable to the property, i.e., Agricultural Residential (A/R), that surrounds the above-described property shall be applicable to this property, unless and until such classification is changed by Orange County pursuant to law.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law on the date it was ratified.

S.B. 1474 **SESSION LAW 2000-99**

AN ACT TO AUTHORIZE ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE TO LEASE CERTAIN PROPERTY BY PRIVATE NEGOTIATION AND TO ALLOW FLEXIBLE USE OF LEASE PROCEEDS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 115D-15, G.S. 115C-518, Article 12 of Chapter 160A of the General Statutes, or any other provisions of law, the Board of Trustees of Asheville-Buncombe Technical Community College may lease any or all portions or interest in the Enka Center of the College by private negotiation. The terms and conditions of any such lease shall be set by the Board and may include rental at less than fair market value. The duration of any such lease shall not exceed five years. Any such lease shall not require the prior approval of the State Board of Community Colleges. The Board shall report annually to the State Board of Community Colleges on any leases entered into pursuant to this act.

The Enka Center property was donated to the College by BASF Corporation. It is located in Buncombe County at the intersection of the southern margin of U.S. Highways 19 and 23 and the western margin of Sand Hill Road.

Section 2. Notwithstanding G.S. 115D-15 or any other provision of law, Asheville-Buncombe Technical Community College may use the proceeds of leases of property pursuant to this act for Plant Fund and Current Expenses budget items at the Enka Center and for the operating costs of programs at the Enka Center.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law on the date it was ratified.

H.B. 1803 **SESSION LAW 2000-100**

AN ACT TO AUTHORIZE THE TOWN OF HUNTERSVILLE TO AMEND AN AGREEMENT FOR PAYMENTS IN LIEU OF ANNEXATION AND TO ADD CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF MATTHEWS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any applicable provision of the General Statutes or any other public or local law, the Town of Huntersville is granted certain contract powers as follows:

(1) The Town of Huntersville may amend the agreement authorized by S.L. 1997-266 ("Agreement") which provided that in consideration of certain payments to the Town in lieu of taxes, certain property described in the Agreement as the "McGuire Nuclear Station Property" would not be involuntarily annexed by the Town prior to December 31, 2027. The Agreement shall be amended by extending the term that the McGuire Nuclear Station Property may not be involuntarily annexed by the Town for 15 years until December 31, 2042, and by accelerating the tax equivalent payments required under Schedule 1 by Duke Power to Huntersville to reflect present value considerations as follows:

AMENDED SCHEDULE 1

Tax Equivalent Payments: The parties agree that Schedule 1 of the Agreement shall be deleted and this Amended Schedule 1 placed in its stead. The tax equivalent payments required under Schedule 1 by Duke Power to Huntersville with respect to its McGuire Nuclear Station Property shall be accelerated under this Amended Schedule 1 to reflect the total and complete prepayment of the remaining tax equivalent payments based on present value considerations as follows:

Year	Payment
1996	0
1997	0
1998	$ 333,333(Paid)
1999	$ 333,333(Paid)
2000 [August 1, 2000]	$2,700,000
2000	$ 333,333
2001	$ 333,333
2002	$ 333,333

2003	$ 333,333
2004	$ 333,333

The parties further agree that tax equivalent payments required under Amended Schedule 1 may be further amended and accelerated upon mutual agreement of the parties to reflect future prepayments based upon present value considerations.

Except as herein amended, the Agreement shall remain in full force and effect and that certain property described in the Agreement as the "McGuire Nuclear Station Property" may not be involuntarily annexed by the Town prior to December 31, 2042. The Town of Huntersville shall not seek to repeal this act upon its approval by the General Assembly.

(2) The amendment to the Agreement entered into as provided in subdivision (1) of this section is specifically determined to be consistent with the public policy of the State of North Carolina.

(3) Any amendment to the Agreement entered into as provided in subdivision (1) of this section is binding on and enforceable against the current and future members of the Board of Commissioners of the Town of Huntersville during the full term of such Agreement and any extension thereof.

(4) The parties to any Agreement amended in accordance with subdivision (1) of this section shall be authorized by this section to further modify, amend, and extend such Agreement on mutual written consent, without the approval of the General Assembly, provided that any such modification or amendment does not materially alter the concept of the Agreement.

Section 2. The Town of Huntersville may accept, as consideration for such amendment, an accelerated schedule for payments in lieu of taxes.

Section 3. The Agreement and its amendment under Section 1 of this act shall apply to the McGuire Nuclear Station Property described as follows.

EXHIBIT A

Parcel 1: That certain tract of land containing 25.25 acres, more or less, beginning at a point in the easterly boundary of County Road No. 2134 and running thence N 88-52-58 E 653.8 feet to a point; thence S 7-19-56 E 237.1 feet to a point; thence S 77-32-50 E 1130.4 feet to a point; thence S 45-37-01 W 1310.6 feet to a point; thence N 30-20-20 W 1144.1 feet to a point; thence N 84-16-48 W 245.8 feet to a point in the easterly boundary of County Road No. 2134; thence with said Road N 4-25-22 W 372.1 feet to the point of Beginning and being shown as Tax Parcels Nos. 16, 17 and 18 on tax map recorded in Book 13 at page 13 of the Mecklenburg County Registry, Parcel 2:

That certain tract of land containing 1,239.0 acres, more or less and being more particularly described as BEGINNING at a point in the Catawba River, said point being located in the Mecklenburg/Lincoln County line and running thence from said beginning point in a generally easterly direction with the boundary of the Cowans Ford Hydroelectric Project (Lake Norman) a distance of 13,136 feet to a point; thence S 2-50-59 W 176.6 feet to a point; thence S 25-09-08 E 147.8 feet to a point; thence with the boundary of the Cowans Ford Hydroelectric Project (Lake Norman) a distance of 711.4 feet to a point; thence leaving the boundary of the Cowans Ford Hydroelectric Project S 11-37 E 47.9 feet to a point; thence S 4-55 W 85.1 feet to a point; thence S 25-41 W 63.9 feet to a point; thence N 74-37 W 29.5 feet to an iron pipe; thence N 80-24 W 13.1 feet to a stake; thence S 1-11 E-291.7 feet to an iron pin; thence S 5-50 W-151.3 feet to the centerline of road 2182; thence S 5-50 W-120.8 feet to an iron; thence S 11-22 W-241.7 feet to an iron pin; thence S 16-54 W-241.7 feet to an iron pin; thence S 22-26 W-241.7 feet to an iron pin; thence S 27-58 W-128.8 feet to an iron pin; thence N 61-15 E-489.9 feet to an iron pin; thence S 51-07 E-214.9 feet to an iron pipe; thence S 11-42 E-444.5 feet to an iron pin; thence S 12-54 E-40.2 feet to an iron pipe; thence S 12-14 E-173 feet to an iron pin; thence S 12-20 E-152.0 feet to an iron pipe; thence S 82-15 W-444.2 feet to an iron pipe; thence N 7-51 W-224.9 feet to an iron pipe; thence S 82-13 W-150.3 feet to an iron pipe; thence S 8-07 E-225.2 feet to an iron pipe; thence S 82-30 W-252.5 feet to an iron; thence crossing NC Hwy. 73; S 41-36 W-155.1 feet to an iron pipe; thence N 82-26 E-304.6 feet to a concrete monument; thence N 82-14 E-591.0 feet to an iron pipe; thence S 8-47 E-210.6 feet to an iron pipe; thence N 81-52 E-210.5 feet to an iron pin; thence S 12-37 E 527.1 feet to an iron pipe; thence N 67-05 E-99.0 feet to a stake; thence S 74-55 E 1082.5 feet to a stake; thence S 23-15 W-2128.0 feet to an iron pipe; thence S 87-51 W-341.6 feet to a stake; thence S 72-56 W-662.7 feet to a stake; thence N 13-47 W-363.2 feet to an iron pin; thence S 62-54 W-375.0 feet to an iron pin; thence S 59-08 W-797.9 feet to an iron pipe; thence S 17-17 W-1048.5 feet to an iron pin in an old road bed; thence following the old road bed S-81-46 E-232.6 feet to an iron pin; thence S 88-02 E-614.5 feet to the centerline of Cashion Road; thence with Cashion Road S 41-23 W-42.5 feet to an iron pin; thence S 58-52 W-317.6 feet to an iron pin; thence S 55-13 W-212.0 feet to an iron pin; thence S 52-39 W-136.4 feet to an iron pin; thence S 39-21 W-115.4 feet to an iron pin; thence S 27-28 W-374.7 feet to an iron pin; thence S 33-29 W-191.2 feet to an iron pipe in the centerline of road; thence leaving Cashion Road S 79-04 W-1003.2 feet to a bolt; thence S 52-29' E-499.0 feet to a hickory; thence S 24-27 W-369.0 feet to a hickory; thence N 88-34 W 2484.4 feet to a point; thence S 4-24 E 488.0 feet to a point; thence S 4-24 E 488.0 feet to an iron pipe; thence S 31-08 W 33.5 feet to an iron pipe; thence S 31-08 W 33.5 feet to an iron pipe; thence S 26-31-50 E 81.29 feet to a point; thence S 11-18-01 E 140.80 feet to a point;

thence S 36-40-59 E 85.20 feet to a point; thence S 54-46-13 E 99.3 feet to a point; thence S 48-26-06 E 165.1 feet to a point; thence S 78-47-39 W 44.3 feet to a point; thence N 70-23-55 W 64.0 feet to a point; thence N 62-38-07 W 119.2 feet to a point; thence N 46-16-58 W 115.6 feet to a point; thence S 20-53-48 W 64.2 feet to a point; thence S 72-56-18 W 69.8 feet to a point; thence N 17-25-07 W 60.8 feet to a point; thence N 41-16-04 W 90.8 feet to a point; thence S 31-08 W 117.0 feet to a point; thence S 6-57-15 E 121.0 feet to a point; thence S 38-21-58 E 154.8 feet to a point; thence S 31-49-57 E 128.6 feet to a point; thence S 21-44-01 E 150.1 feet to a point; thence S 24-46-05 E 163.0 feet to a point; thence S 20-00-04 E 152.5 feet to a point; thence S 13-33-03 E 115.1 feet to a point; thence S 10-37-00 E 135.7 feet to a point; thence S 3-15-45 W 80.3 feet to a point; thence S 1-48-59 E 87.7 feet to a point; thence S 81-29-08 E 141.3 feet to a point; thence S 86-05-51 E 126.8 feet to a point; thence N 35-45-45 E 77.0 feet to a point; thence N 4-18-05 W 95.6 feet to a point; thence N 28-03-50 W 120.2 feet to a point; thence N 34-32-57 W 142.6 feet to a point; thence N 7-27-12 W 208.3 feet to a point; thence S 74-55-06 E 128.4 feet to a point; thence N 70-39-55 E 214.3 feet to a point; thence S 34-57-12 E 85.2 feet to a point; thence S 14-09-08 W 120.9 feet to a point; thence S 36-38-57 W 142.8 feet to a point; thence S 43-56-01 E 90.8 feet to a point; thence S 09-24-14 E 135.5 feet to a point; thence S 05-20-06 E 81.2 feet to a point; thence S 26-38-06 W 102.7 feet to a point; thence S 6-48-38 E 40.9 feet to a point; thence S 58-54-04 E 211.7 feet to a point; thence S 88-34-13 E 102.0 feet to a point; thence S 38-39-48 E 73.8 feet to a point; thence S 1-21-43 E 85.0 feet to a point; thence S 62-52-04 E 149.1 feet to a point; thence S 4-42-28 E 27.3 feet to a point; thence S 87-41-57 W 2089.2 feet to a point in the Catawba River (Mecklenburg/Lincoln County Line); thence with the Mecklenburg/Lincoln County Line 12,055 feet to the point of BEGINNING.

Section 4. No portion of the McGuire Nuclear Station Property shall be subject to involuntary annexation, or designation as an urban tax district or otherwise subjected to the power of a municipal taxing authority by Huntersville or any other town or municipality or consolidated government during the term of the agreement referenced in Section 1 of this act.

Section 4.1.(a) In addition to the authority granted by G.S. 160A-48, the Town of Matthews may by ordinance annex any area, or part thereof, listed in subsection (b) of this section. The provisions of G.S. 160A-49(a), (b), (d), (e)(4), (f), and (g) shall apply (other than references to G.S. 160A-47) to the end that a public hearing shall be held with proper notice.

Section 4.1.(b) Subsection (a) of this section applies to the following described Mecklenburg County parcels:

Tax Parcel	Size
193-311-14	3.00 acres

193-311-37	0.37 acres
193-311-38	0.70 acres
193-161-07	7.78 acres
193-171-33	6.91 acres
215-111-15	3.00 acres
215-111-16	3.03 acres
215-141-08	6.33 acres
215-162-38	0.46 acres
215-042-16	1.00 acres
215-101-10	1.97 acres
227-027-31	6.38 acres
227-026-04	13.77 acres
227-027-42	3.28 acres
227-027-44	4.2 acres
227-151-21	2.29 acres
227-151-22	8.22 acres
227-151-23	2.8 acres
227-151-24	2.12 acres
227-152-01	3.85 acres
227-292-55	0.83 acres
227-292-63	1.68 acres
227-292-64	0.40 acres

Section 4.1.(c) Any public road right-of-ways that are adjacent to the parcels described in subsection (b) of this section may be included in any annexations conducted by the Town of Matthews pursuant to this section as if they were part of the parcels.

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law on the date it was ratified.

S.B. 1275 **SESSION LAW 2000-101**

AN ACT TO EXTEND THE MORATORIUM ON NEW BILLBOARDS ALONG A DESIGNATED SECTION OF INTERSTATE 40, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The moratorium on the erection of outdoor advertising along the portion of Interstate Highway 40 from the Orange-Alamance County line to the municipal limits of the City of Wilmington, imposed by S.L. 1999-436, is extended. The moratorium imposed by this section shall not apply to outdoor advertising described in subdivisions (1), (2), and (3) of G.S. 136-129.

Section 2. A moratorium is imposed on the issuance of permits for the construction of new outdoor advertising along the portion of Interstate Highway 40 from the Orange-Alamance County line to the municipal limits of the City of Wilmington. The moratorium imposed

by this section shall not apply to outdoor advertising described in subdivisions (1), (2), and (3) of G.S. 136-129.

Section 3. This act becomes effective July 1, 2000, and expires July 1, 2001.

In the General Assembly read three times and ratified this the 7th day of July, 2000.

Became law upon approval of the Governor at 10:45 a.m. on the 11th day of July, 2000.

H.B. 1617 **SESSION LAW 2000-102**

AN ACT TO AUTHORIZE THE ADDITION OF LEA ISLAND STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION; TO TRANSFER STATE PROPERTY IN BURKE COUNTY; AND TO REALLOCATE STATE LAND IN WAKE COUNTY TO THE DEPARTMENT OF CULTURAL RESOURCES FOR THE NORTH CAROLINA MUSEUM OF ART.

Whereas, Section 5 of Article XIV of the North Carolina Constitution states that it shall be a proper function of the State of North Carolina to acquire and preserve park, recreational, and scenic areas and, in every other appropriate way, to preserve as a part of the common heritage of this State its open lands and places of beauty; and

Whereas, the General Assembly enacted the State Parks Act in 1987, declaring that the State of North Carolina offers unique archaeological, geological, biological, scenic, and recreational resources, and that such resources are part of the heritage of the people of the State to be preserved and managed by those people for their use and for the use of their visitors and descendants; and

Whereas, Lea Island in Pender County is one of the few remaining undeveloped barrier islands on the North Carolina coast; contains examples of high quality coastal natural communities; provides excellent breeding and migration habitat tfor wildlife, including several rare species; and has been found to possess biological and scenic resources of statewide significance; and

Whereas, the North Carolina State Office of the National Audubon Society has expressed particular interest in the protection of Lea Island and is willing to partner with the State to provide long-term management for the site; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The General Assembly authorizes the Department of Environment and Natural Resources to add Lea Island State Natural Area to the State Parks System as provided in G.S. 113-44.14(b).

Section 2. The Department of Administration is directed to transfer or otherwise convey for no monetary consideration approximately 150 acres in Burke County to Western Piedmont

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Community College property for an agricultural campus. The property adjoins current County of Burke, Western Piedmont Community College, North Carolina School for the Deaf, and Broughton Hospital property. Of that land, not to exceed 12 acres may be made available by Western Piedmont Community College to the County of Burke for the purpose of building the Burke County Agriculture Extension Complex.

Section 3. The State land located in Raleigh bounded by Blue Ridge Road on the west, Wade Avenue on the south, the Raleigh beltline on the east, and the Meredith Woods subdivision on the north is hereby reallocated to the Department of Cultural Resources for the North Carolina Museum of Art.

Section 4. The following sections of prior session laws are repealed: Section 25.25 of Chapter 802 of the 1977 Session Laws; Section 46 of Chapter 1086 of the 1988 Session Laws; and Section 73 of Chapter 561 of the 1993 Session Laws.

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law upon approval of the Governor at 10:55 a.m. on the 11th day of July, 2000.

H.B. 1748 **SESSION LAW 2000-103**

AN ACT TO CHANGE THE PURPOSES FOR WHICH THE GRANVILLE COUNTY OCCUPANCY TAX CAN BE USED FOR A LIMITED PERIOD OF TIME, TO ESTABLISH A TOURISM DEVELOPMENT AUTHORITY, TO MAKE TECHNICAL CHANGES, TO CHANGE THE PURPOSES FOR WHICH THE BANNER ELK OCCUPANCY TAX MAY BE USED, AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

PART I. GRANVILLE COUNTY OCCUPANCY TAX REVISIONS

Section 1. Chapter 454 of the 1993 Session Laws reads as rewritten:

"Section 1. Occupancy tax.

(a) **Authorization and Scope.**

The Granville County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of ~~five percent (5%)~~ three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations. The combined occupancy tax rates for Granville County and any city or town that is located in Granville

County and is authorized to levy a room occupancy tax may not exceed six percent (6%).

(b) **Administration.**

A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

~~(b) **Collection.**~~

~~Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) **Administration.**~~

~~The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) **Penalties.**~~

~~A person, firm, corporation, or association who fails or refuses to file the return required by this section is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The board of commissioners has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

(e) **Distribution and Use of Tax Revenue.**

~~Granville County shall use at least two-thirds of the proceeds of the tax revenue to promote travel and tourism and shall use the remaining tax proceeds for tourism-related expenditures. The term "promote travel and tourism" means to~~ The county shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Granville County Tourism Development Authority. The Authority may use up to two-thirds of the funds remitted to it under this subsection for the following tourism-related expenditures designed to attract tourists and

business travelers from outside the county into the county: (i) developing facilities for fishing tournaments, skiing tournaments, and boating events; (ii) constructing facilities for festivals; (iii) constructing tournament grade multipurpose athletic facilities; and (iv) financing other similar capital expenditures. The Authority shall use the remaining net proceeds to promote travel and tourism in Granville County.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the gross proceeds.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the ~~county; the~~ county. The term includes administrative expenses incurred in engaging in the listed activities. ~~The term "tourism-related expenditures" means expenditures that~~

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the ~~county and expenditures by the county to administer and collect the tax; it~~ county. The term includes ~~expenditures for the construction or maintenance of a convention or meeting facility to be used primarily by individuals who are not residents of the county and for the construction or maintenance of a coliseum or a visitors' center, but does not include other~~ tourism-related capital expenditures.

~~(f) **Effective Date of Levy.**~~

~~A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) **Repeal.**~~

~~A tax levied under this section may be repealed by a resolution adopted by the Granville County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

Sec. 1.1. Granville Tourism Development Authority.

(a) **Appointment and Membership.**

The Board of County Commissioners shall adopt a resolution creating a county Tourism Development Authority, which shall be a

public authority under the Local Government Budget and Fiscal Control Act. The Authority shall be composed of five members who shall serve for staggered three-year terms. The members shall be appointed as follows: three appointed by the Granville County Board of Commissioners, one appointed by the Oxford City Council, and one appointed by the Creedmoor City Council. One of the three members appointed by the Granville County Board of Commissioners must be an owner or manager of a Granville County hotel or motel. The remaining members must be individuals who are currently active in the promotion of travel and tourism in the county. Vacancies shall be filled in the same manner as original appointments, and members appointed to fill vacancies shall serve for the remainder of the unexpired term. The resolution shall determine the compensation, if any, to be paid to the members of the Authority.

At the first meeting of each calendar year, the membership of the Authority shall elect one member to serve as chair until the first meeting of the following year. The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Granville County shall be the ex officio finance officer of the Authority.

(b) **Duties.**

The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(c) **Reports.**

The Authority shall report quarterly and at the close of the fiscal year to the Granville County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 2. This act is effective upon ratification."

Section 2. To achieve the staggered terms required on the Granville County Tourism Development Authority, as provided in Section 1 of this act, the initial terms of the members of the Authority shall be as follows: The initial term of the member who is an owner or manager of a hotel or motel shall be three years. The Granville County Board of Commissioners must designate one of its remaining appointees to serve an initial term of two years and the other to serve an initial term of one year. The remaining initial members shall serve terms of three years each. Thereafter, all terms shall be three years.

Section 3. Section 1(a) of Chapter 454 of the 1993 Session Laws, as amended by Section 1 of this act, reads as rewritten:

"(a) **Authorization and Scope.**

The Granville County Board of Commissioners may levy a room occupancy tax of ~~three percent (3%)~~ five percent (5%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or

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similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations. The combined occupancy tax rates for Granville County and any city or town that is located in Granville County and is authorized to levy a room occupancy tax may not exceed six percent (6%)."

Section 4. Section 1(e) of Chapter 454 of the 1993 Session Laws, as amended by Section 1 of this act, reads as rewritten:

"(e) **Distribution and Use of Tax Revenue.**

The county shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Granville County Tourism Development Authority. The Authority ~~may~~ shall use ~~up to~~ at least two-thirds of the funds remitted to it under this subsection ~~for the following tourism-related expenditures designed to attract tourists and business travelers from outside the county into the county: (i) developing facilities for fishing tournaments, skiing tournaments, and boating events; (ii) constructing facilities for festivals; (iii) constructing tournament grade multi-purpose athletic facilities; and (iv) financing other similar capital expenditures. The Authority shall use the remaining net proceeds~~ to promote travel and tourism in Granville ~~County.~~ County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the gross proceeds.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the county. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures."

Section 5. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Avery, Brunswick, Craven, Currituck, Davie, Granville, Madison, Nash, Person, Randolph, Scotland, and Transylvania Counties."

PART II. BANNER ELK OCCUPANCY TAX REVISIONS

Section 6. Sections 1 through 6 of Chapter 318 of the 1989 Session Laws, as amended by Chapter 428 of the 1993 Session Laws, read as rewritten:

"Section 1. Occupancy Tax. The Town Council of Banner Elk may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy and tourism development tax. ~~Collection of the tax and liability therefor shall begin and continue only on and after the first day of a calendar month set by the Town Council of Banner Elk in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.~~

The occupancy and tourism development tax that may be levied under this act shall be three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation in the Town of Banner Elk that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3).~~ 105-164.4(a)(3). This tax is in addition to any State or local sales tax. The tax shall not apply to any room, lodging, or accommodation supplied to the same person for a period of 90 continuous days or more or to sleeping rooms or lodging furnished by charitable, educational, or religious institutions or by nonprofit organizations.

"Sec. 2. Administration of Tax. (a) A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section. ~~The Town of Banner Elk shall administer a tax levied under this act. A tax levied under this act is due and payable to the town in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, and association liable for the tax shall, on or before the 15th day of each month prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A return filed with the county town under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this act is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The town council has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

(c) All persons, firms, corporations, and associations who rent either their own dwelling or dwellings or rooms for other persons are required to submit to the town a list of all rented properties. This list shall include the owner's name and current address and the location of the rental property. The list shall be submitted semi-annually on or before November 30 and May 30. Failure to file this listing shall subject the person, firm, corporation, or association to a civil penalty of fifty dollars ($50.00).

~~"Sec. 3. Collection of Tax. (a) Every operator of a business and every individual renting his or her own property subject to the tax levied pursuant to this act shall on and after the effective date of the levy of the tax, collect the three percent (3%) room occupancy tax. This tax shall be collected as part of the charge for furnishing any taxable accommodations. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the Town of Banner Elk. It is the intent of this act that the room occupancy tax levied by the Town of Banner Elk shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the operator of the business. The town shall design, print, and furnish to all appropriate businesses in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(b) Collection of the tax shall be the responsibility of the Banner Elk Tax Administrator. In his or her discretion, the tax administrator may proceed against an operator whose occupancy tax is delinquent employing all remedies for collection of tax as set out in G.S. 105-367, 105-368, 105-374, and 105-375. In employing the remedies under those statutes, the tax levied under this act shall be treated as a property tax on personal property. The Tax Administrator may audit occupancy tax reports as he or she deems necessary utilizing information available to him or her in property tax matters.~~

~~"Sec. 4. Discount for Payment of Taxes When Due. Every operator who pays the occupancy tax imposed by this act may deduct from the amount of the tax for which he is liable and which he actually pays a discount equal to the discount the State allows the operator for collecting State sales and use taxes. Provided, however, the tax administrator may deny a taxpayer the benefit of this section for failure to pay the full tax when due as well as in cases of fraud, evasion, or failure to keep accurate and clear records as required. Provided, further, that in order to receive any discount allowed the taxpayer must deduct the discount at the time of making the monthly remittance of tax to the town.~~

"Sec. 5. ~~Disposition of Taxes Collected.~~ Distribution and Use of Tax Revenue. The Town Council shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Banner Elk Tourism Development Authority. The Authority shall use at least one-third of the funds remitted to it under this section to promote travel and tourism in Banner Elk and shall use the remainder for tourism-related expenditures.

The following definitions apply in this section:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. To ~~The town council shall use at least two-thirds of the room occupancy tax proceeds to promote travel and tourism and shall use the remainder of the proceeds only for tourism-related expenditures. The term 'promote travel and tourism' means to~~ advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in or sponsor similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities. ~~The term 'tourism-related expenditures' means expenditures that~~

(3) Tourism-related expenditures. -- Expenditures that, in the judgement of the Authority, are designed to increase the use of lodging ~~facilities~~ facilities, recreational facilities, and business establishments in the town or to attract tourists or business travelers to the ~~town and expenditures incurred by the town in collecting the tax. The term includes expenditures to construct, maintain, operate, or market a convention or meeting facility, a visitors' center, or a coliseum and other expenditures that, in the judgment of the town council, will facilitate and support tourism.~~ town. The term includes tourism-related capital expenditures and expenditures required to make the downtown tourist area and nearby green areas more accessible, attractive, and usable to pedestrian tourists, in accordance with the master plan approved by the Town Council.

~~The town may retain its costs of collecting the tax, not to exceed seven percent (7%) of the amount collected.~~

~~"Sec. 6. Repeal of Levy. The Banner Elk Town Council may by resolution repeal the levy of the room occupancy tax in Banner Elk, but no repeal of taxes levied under this act shall be effective until the end of the fiscal year in which the repeal resolution was adopted. No liability for a tax levied under this act that attached prior to the date on which a levy is repealed shall be discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed shall be denied as a result of the repeal.~~

"Sec. 7. Tourism Development Authority. (a) Appointment and membership. The Town of Banner Elk shall adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The Authority shall be composed of five members who shall serve for staggered three-year terms. The members shall be appointed by the mayor and approved by the Town Council. Two of the members must be an owner or manager of a Banner Elk hotel, motel, or bed and breakfast and one of the other members must be a representative for Lees-McRae College. The remaining two members must be individuals who are currently active in the promotion of travel and tourism in the town. Vacancies shall be filled in the same

manner as the original appointments, and members appointed to fill vacancies shall serve for the remainder of the unexpired term. The Banner Elk Town Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Banner Elk shall be the ex officio, nonvoting finance officer of the Authority.

(b) Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 5 of this act. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Banner Elk Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require."

Section 7. To achieve the staggered terms required on the Banner Elk Tourism Development Authority, as provided in Section 6 of this act, the initial terms of the members of the Authority shall be as follows: The initial term of one of the two at-large members shall be one year and the initial term of one of the two members that is an owner or manager of a Banner Elk hotel, motel, or bed and breakfast shall be two years. The remaining initial members shall serve terms of three years each. Thereafter, all terms shall be three years.

Section 8. Effective October 1, 2010, Section 5 of Chapter 318 of the 1989 Session Laws, as amended by Chapter 428 of the 1993 Session Laws and Section 6 of this act, reads as rewritten:

"Sec. 5. Distribution and use of tax revenue. The town council shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Banner Elk Tourism Development Authority. The Authority shall use at least ~~one-third~~ two-thirds of the funds remitted to it under this section to promote travel and tourism in Banner Elk and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in or sponsor similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgement of the Authority, are designed to increase the use of lodging facilities, recreational facilities, and business establishments in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital ~~expenditures and expenditures required to make the downtown tourist area and nearby green areas more accessible, attractive, and usable to pedestrian tourists, in accordance with the master plan approved by the town council.~~ expenditures."

Section 9. G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to the Cities of Goldsboro, Greensboro, Lumberton, Mount Airy, Shelby, and Statesville, to the Towns of ~~Mooresville~~ Banner Elk, Mooresville, and St. Pauls, and to the municipalities in Brunswick County."

PART III. EFFECTIVE DATES

Section 10.(a) Part I: Granville Occupancy Tax Revisions. Sections 1 through 5 of this act apply only to Granville County. Sections 1, 2, and 5 of this act become effective October 1, 2000, and apply to taxes collected on or after that date. Sections 3 and 4 of this act become effective October 1, 2007, and apply to taxes paid on or after that date.

Section 10.(b) Part II: Banner Elk Occupancy Tax Revisions. Sections 6 through 9 of this act apply only to the Town of Banner Elk. Sections 6, 7, and 9 of this act become effective October 1, 2000, and apply to taxes collected on or after that date. Section 8 of this act becomes effective October 1, 2010, and applies to taxes collected on or after that date.

Section 10.(c) The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law on the date it was ratified.

S.B. 1359 **SESSION LAW 2000-104**

AN ACT AUTHORIZING THE CITY OF WINSTON-SALEM TO REMOVE AND DISPOSE OF MOTOR VEHICLES THAT POSE A SAFETY HAZARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-303, as applicable to the City of Winston-Salem under Chapter 92 of the 1995 Session Laws, reads as rewritten:

"*§ 160A-303. Removal and disposal of junked and abandoned motor ~~vehicles.~~ vehicles and motor vehicles that constitute a safety hazard.*

(a) A city may by ordinance prohibit the abandonment of motor vehicles on the public streets or on public or private property within

the city, and may enforce any such ordinance by removing and disposing of junked or abandoned motor vehicles or motor vehicles that constitute a safety hazard according to the procedures prescribed in this section.

(b) A motor vehicle is defined to include all machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

(b1) An abandoned motor vehicle is one that:

(1) Has been left upon a street or highway in violation of a law or ordinance ~~prohibiting parking; or~~ that prohibits parking or requires the display of a valid license plate or registration sticker; or

(2) Is left on property owned or operated by the city for longer than 24 hours; or

(3) Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; or

(4) Is left on any public street or highway for longer than seven ~~days.~~ days, or within the corporate limits of the City of Winston-Salem for longer than 48 hours on:

a. U.S. Highway 52;

b. Interstate Highway 40; ~~or~~

c. Business Interstate Highway 40;

d. Peters Creek Parkway;

e. Silas Creek Parkway; or

f. Highway 421.

~~within the corporate limits of the City of Winston-Salem for longer than 48 hours.~~

(b2) A junked motor vehicle is an abandoned motor vehicle that also:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or

(3) Is more than five years old and worth less than ~~one hundred dollars ($100.00);~~ five hundred dollars ($500.00); or

(4) Does not display a current license plate.

(b3) A motor vehicle that constitutes a safety hazard is one that is left upon a public street or highway or private property longer than 48 hours; has been declared a safety hazard, without regard to whether the vehicle is abandoned or junked as defined in this section, by the Board of Aldermen or a duly authorized city official or employee pursuant to an ordinance adopted under this section; and:

(1) Is a breeding ground or harbor for rats;

(2) Is a point of concentration or source of leaking of uncontained gasoline, oil, or other flammable or explosive materials;

(3) Is positioned in a way that there is a danger it will fall or turn over; or

(4) Is a source of danger for children because they might become entrapped in areas of confinement that cannot be opened from the inside.

(c) Any junked or abandoned motor vehicle or motor vehicle that constitutes a safety hazard that is found to be in violation of an ordinance adopted under this section may be removed to a storage garage or area, but no ~~such~~ junked or abandoned motor vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the ~~premises unless the council or a duly authorized city official or employee has declared it to be a health or safety hazard.~~ premises. Prior to removing a vehicle that constitutes a safety hazard from private property, the city shall attach a notice to the vehicle stating the nature of the safety hazard and indicating that the vehicle is subject to removal within 72 hours if the safety hazard is not eliminated. The city shall also provide the same notice to the owner, lessee, or occupant of the premises, either by personal service or certified mail. The city may require any person requesting the removal of a ~~junked or abandoned~~ motor vehicle from private property to indemnify the city against any loss, expense, or liability incurred because of the removal, storage, or sale thereof. When ~~an abandoned or junked~~ a motor vehicle is removed, the city shall give notice to the owner as required by G.S. 20-219.11(a) and (b).

(d) Hearing Procedure. -- Regardless of whether a city does its own removal and disposal of motor vehicles or contracts with another person to do so, the city, shall provide a hearing procedure for the owner. For purposes of this subsection, the definitions in G.S. 20-219.9 apply.

(1) If the city operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 7A, Chapter 20, apply.

(2) If the city operates in such a way that it is responsible for collecting towing fees, it shall:

a. Provide by contract or ordinance for a schedule of reasonable towing ~~fees,~~ fees and storage fees that are comparable to the fees customarily charged to the public by local private towers,

b. Provide a procedure for a prompt fair hearing to contest the towing,

c. Provide for an appeal to district court from that hearing,

d. Authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and

e. Provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the city may destroy it.

(e) Repealed by Session Laws 1983, c. 420, s. 13.

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(f) No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost, or stolen motor vehicle for disposing of the vehicle as provided in this section.

(g) Nothing in this section shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

(h) Repealed by Session Laws 1983, c. 420, s. 13."

Section 2. G.S. 160A-303.2(a) reads as rewritten:

"(a) A municipality may by ordinance regulate, restrain or prohibit the abandonment of junked motor vehicles on public grounds and on private property within the municipality's ordinance-making jurisdiction upon a finding that such regulation, restraint or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance, and may enforce any such ordinance by removing or disposing of junked motor vehicles subject to the ordinance according to the procedures prescribed in this section. The authority granted by this section shall be supplemental to any other authority conferred upon municipalities. Nothing in this section shall be construed to authorize a municipality to require the removal or disposal of a motor vehicle kept or stored at a bona fide 'automobile graveyard' or 'junkyard' as defined in G.S. 136-143.

For purposes of this section, the term 'junked motor vehicle' means a vehicle that does not display a current license plate and that:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) Is more than five years old and appears to be worth less than ~~one hundred dollars ($100.00).~~ five hundred dollars ($500.00)."

Section 3. This act applies to the City of Winston-Salem only.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law on the date it was ratified.

S.B. 1454 **SESSION LAW 2000-105**

AN ACT TO PROHIBIT THE SHINING OF LIGHTS IN DEER AREAS IN HAYWOOD COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to shine a light intentionally upon a deer or to sweep a light in search of deer between the hours of one-half hour after sunset and one-half hour before sunrise in Haywood County.

Section 2. Section 1 of this act shall not be construed to prevent:

(1) The lawful hunting of raccoon or opossum during open season with artificial lights designed or commonly used in taking raccoon and opossum at night;

(2) The necessary shining of lights by landholders on their own lands;

(3) The shining of lights necessary to normal travel by motor vehicles on roads or highways; or

(4) The use of lights by campers and others who are legitimately in these areas for other reasons and who are not attempting to attract or to immobilize deer by the use of lights.

Section 3. Violation of this act is a Class 3 misdemeanor.

Section 4. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

Section 5. This act applies only to Haywood County.

Section 6. This act becomes effective October 1, 2000.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law on the date it was ratified.

S.B. 1463 **SESSION LAW 2000-106**

AN ACT TO ALLOW DARE COUNTY TO CREATE SPECIAL DISTRICTS TO UNDERGROUND LINES.

The General Assembly of North Carolina enacts:

Section 1. Authorization to Create Utility District. A county board of commissioners may create one or more Utility Districts for the purpose of raising and expending funds to underground electric and telephone utility lines in the district.

Section 2.(a) Procedure. A county board of commissioners may by resolution signify its determination to create a Utility District under the provisions of this act. The resolution shall be adopted after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the boundaries of the district, and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 2.(b) The resolution shall include articles of incorporation which shall set forth:

(1) The name of the district;

(2) A statement that the district is organized under this act; and

(3) A description of the boundaries, which may include any territory designated by the county board of commissioners that is not in the corporate limits of any municipality.

Section 2.(c) No territory may be in more than one district.

Section 2.(d) All territory of a district shall be within the county.

Section 2.(e) A certified copy of the resolution signifying the determination to organize a district under the provisions of this act shall be filed with the Secretary of State, together with proof of publication of the notice of hearing on the resolution. If the Secretary of State finds that the resolution, including the articles of incorporation, conforms to the provisions of this act and that the notice of hearing was properly published, the Secretary of State shall file the resolution and proof of publication in the records of that office, shall issue a certificate of incorporation under the seal of the State, and shall record the same in an appropriate book of record. The issuance of the certificate of incorporation by the Secretary of State shall constitute the district, a public body and body politic and corporate of the State of North Carolina. This certificate of incorporation shall be conclusive evidence of the fact that the district has been duly created and established under the provisions of this act.

Section 2.(f) When the district has been duly organized and its officers appointed as provided by this act, the secretary or clerk of the district shall certify to the Secretary of State the names and addresses of the officers as well as the address of the principal office of the district.

Section 3.(a) Annexation to District. By adoption of a resolution, and with the approval of the board of commissioners of a county by resolution, any municipality located wholly within that county may annex the entirety of that municipality to any Utility District created by this act, but no municipality may be in more than one district. The resolution shall be adopted by the municipal governing board after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 3.(b) By adoption of a resolution, the board of commissioners of a county may annex any area within that county but not within the corporate limits of any municipality to a Utility District, but no area may be in more than one district. The resolution shall be adopted by the county board of commissioners after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, the boundaries of the proposed annexation, and shall state the time

and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 3.(c) If any area in a Utility District is annexed to the corporate limits of any municipality, it shall remain in the same Utility District notwithstanding any other provision of this act.

Section 4.(a) Governing Board. Each Utility District shall be governed by a special commission consisting of one person appointed by the board of commissioners of that county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each local telephone exchange carrier licensed to do business in North Carolina and providing service in that county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each electric utility provider in the county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each cable television provider in the county, and one person appointed by the governing board of each municipality that has annexed its territory to the district under Section 3(a) of this act.

Section 4.(b) In the case of Dare County, one person shall also be appointed to the Special Commission by the Roanoke Island Commission established by Part 27A of Article 2 of Chapter 143B of the General Statutes. Appointments shall be for two-year terms.

Section 5.(a) Powers. By resolution the board of commissioners of the county, acting ex officio on behalf of the Utility District, may levy an assessment of up to:

(1) One dollar ($1.00) per month on each residential electric power customer bill for service within the district, and up to five dollars ($5.00) per month on each commercial or industrial electric power customer bill within the district.

(2) One dollar ($1.00) per month on each residential telephone customer bill for service within the district and up to five dollars ($5.00) per month on each commercial or industrial telephone customer bill within the district.

Section 5.(b) The Utility District may receive contributions from the State of North Carolina, local governments, and the private sector for corporate purposes authorized by this act.

Section 5.(c) The commission may contract with the State of North Carolina, another local government, or a private entity for carrying out the projects authorized by this act. Any State, local government, or other entity which carries out projects authorized by this act, or otherwise takes action affecting any company whose lines are effected pursuant to the terms of this act shall remain fully liable for any damages to company property. Any private sector entity with which the district wishes to contract to carry out projects authorized by this act must be approved in writing in advance by each company whose facilities will be affected and must carry sufficient insurance to cover any damages caused.

Section 5.(d) The board of commissioners may exempt from payment of the assessment on an electric bill any person for whom the

payment would work an unreasonable financial hardship in accordance with criteria established by the board of commissioners. The board of commissioners shall exempt from payment of the assessment on a telephone bill those low-income residential telephone customers who pay reduced rates for local telephone service pursuant to an order of the North Carolina Utilities Commission.

Section 5.(e) The commission may order any cable television lines (or other lines other than electric or telephone) to be undergrounded when any electric or telephone line on the same pole is undergrounded.

Section 6. Use of Funds. The assessments levied under this act, after being expended for the necessary administrative expenses of the utility district, shall be used only for undergrounding of electric and telephone utility lines within the district. When an electric or telephone utility line is undergrounded adjacent to a residential premises which is served by that distribution line, the Utility District shall, at no additional cost to the customer, underground the customer service line to the premises and replace or modify the meter base and the customer interface device to accept the underground service. The budget for the Utility District shall be adopted by the special commission for that district. The budget shall include funding to pay for the installation of conduit for underground telephone cable, where required.

Section 7. Corporate Existence. A Utility District created under this act shall have the power granted by this act, and may do all acts reasonably necessary to fulfill this purpose. A simple majority of the governing board constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

Section 8. Fiscal Control. The Utility District is a special district under G.S. 159-7 and is covered by the applicable provisions of Chapter 159 of the General Statutes.

Section 9.(a) Levy. An assessment authorized by this act may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. An assessment authorized by this act shall become effective on the date specified in the resolution levying the assessment. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the third month after the date the resolution is adopted. In establishing the effective date, the board of commissioners shall consult with any utility that will be collecting the assessment to determine any administrative lead times that might be desirable.

Section 9.(b) Collection. Every utility subject to an assessment authorized by this act shall, on and after the effective date of the levy of the assessment, collect it. The assessment shall be collected as part of the charge for furnishing service. The assessment shall be stated and charged separately and shall be paid by the purchaser to the utility as trustee for and on account of the Utility District. The assessment shall be passed on to the purchaser instead

of being borne by the utility. The Utility District shall design, print, and furnish to all appropriate utilities in the district the necessary forms for filing returns and instructions to ensure the full collection of the assessment. A utility who collects an assessment authorized by this act may deduct from the amount remitted to the Utility District a discount equal to the discount the State allows the utility for State sales and use tax. For the purpose of this act, a utility includes a government entity providing service, a cooperative, and any other utility. A utility shall have the same right to suspend or terminate service for nonpayment of the assessment that it has to suspend or terminate service for payment of any other part of the utility bill. A utility has no obligation to take any legal action to enforce the collection of assessments under this act. The county or the district may initiate a collection action in its name and reasonable costs and attorneys' fees may be awarded to the plaintiff.

Section 9.(c) Administration. The Utility District shall administer an assessment it levies under this act. An assessment authorized by this act is due and payable to the district finance officer in monthly installments on or before the last day of the month following the month in which the assessment accrues. Every person, firm, corporation, or association liable for the assessment shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the Utility District. The return shall state the total gross receipts derived in the preceding month upon which the assessment is levied. A return filed with the district finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 as if the Utility District were a county. The Utility District may adopt a payment schedule keyed to the billing cycle of the utility collecting the assessment rather than the calendar month, as long as there are at least 12 billing cycles per year.

Section 9.(d) Penalties. A person, firm, corporation, or association who fails or refuses to file an assessment return or pay an assessment authorized by this act as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the Utility District has the same authority to waive the penalties for an assessment authorized by this act that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

Section 9.(e) Increase, Repeal, or Reduction. An assessment levied by a district under this act may be increased not in excess of the maximum allowed by this act, repealed or reduced by a resolution adopted by the board of commissioners of the county, acting ex officio on behalf of the Utility District. Repeal or reduction of an assessment authorized by this act shall become effective on the first day of a month and may not be earlier than the first day of the third month after the date the resolution is adopted. Repeal or reduction of an assessment authorized by this act does not affect a liability for an assessment that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of an assessment that

accrued before the effective date of the repeal or reduction. In establishing the effective date, the board of commissioners shall consult with any utility that will be collecting the assessment to determine any administrative lead times that might be desirable. Once the lines have been undergrounded and the costs have been paid, the board of commissioners shall terminate the assessment.

Section 10. Interlocal Agreements. By interlocal agreement adopted under Chapter 160A of the General Statutes, a Utility District created under this act may contract with a municipality or county to handle assessment collections and fiscal control.

Section 11.(a) The district shall coordinate with affected utilities, municipalities, and the North Carolina Department of Transportation to facilitate acquisition of rights-of-way for burial of cable.

Section 11.(b) The undergrounding required by this act shall be a coordinated effort between the utility district and the affected electric, telephone, and cable television companies.

Section 12. The State Auditor may perform audits pursuant to Article 5A of Chapter 147 of the General Statutes to ensure that funds collected by or paid to the Utility District are being managed in accordance with the provisions of this act, and shall perform an audit at least every two years. The costs of the audit shall be reimbursed to the State Auditor by the Utility District.

Section 13. This act applies to Dare County only.

Section 14. Sections 1.1 through 11 of S.L. 1999-127 are repealed.

Section 15. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law on the date it was ratified.

H.B. 1768 **SESSION LAW 2000-107**

AN ACT MAKING OMNIBUS CHANGES TO CERTAIN GENERAL AND LOCAL LAWS AFFECTING CARTERET, ORANGE, AND PENDER COUNTIES.

The General Assembly of North Carolina enacts:

PART I. CARTERET, ORANGE, AND PENDER COUNTIES ADDED TO THOSE COUNTIES USING ATTACHMENT AND GARNISHMENT IN THE COLLECTION OF AMBULANCE SERVICE FEES

Section 1. G.S. 44-51.8 reads as rewritten:

"§ *44-51.8. Counties to which Article applies.*

The provisions of this Article shall apply only to Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bladen, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Caswell, Catawba, Chatham, Cherokee, Chowan, Cleveland, Columbus, Craven,

Cumberland, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hertford, Hoke, Hyde, Iredell, Johnston, Jones, Lee, Lenoir, Lincoln, McDowell, Macon, Madison, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pasquotank, Pender, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Tyrrell, Union, Vance, Wake, Warren, Washington, Watauga, Wilkes, Wilson, Yadkin and Yancey Counties."

PART II. REGULATION OF OPEN BURNING

Section 2. G.S. 153A-136 reads as rewritten:

"*§ 153A-136. Regulation of solid wastes.*

(a) A county may by ordinance regulate the storage, collection, transportation, use, disposal, and other disposition of solid wastes. Such an ordinance may:

(1) Regulate the activities of persons, firms, and corporations, both public and private.

(2) Require each person wishing to commercially collect or dispose of solid wastes to secure a license from the county and prohibit any person from commercially collecting or disposing of solid wastes without a license. A fee may be charged for a license.

(3) Grant a franchise to one or more persons for the exclusive right to commercially collect or dispose of solid wastes within all or a defined portion of the county and prohibit any other person from commercially collecting or disposing of solid wastes in that area. The board of commissioners may set the terms of any franchise, except that no franchise may be granted for a period exceeding 30 years, nor may any franchise by its terms impair the authority of the board of commissioners to regulate fees as authorized by this section.

(4) Regulate the fees, if any, that may be charged by licensed or franchised persons for collecting or disposing of solid wastes.

(5) Require the source separation of materials prior to collection of solid waste for disposal.

(6) Require participation in a recycling program by requiring separation of designated materials by the owner or occupant of the property prior to disposal. An owner of recovered materials as defined by G.S. 130A-290(a)(24) retains ownership of the recovered materials until the owner conveys, sells, donates, or otherwise transfers the recovered materials to a person, firm, company, corporation, or unit of local government. A county may not require an owner to convey, sell, donate, or otherwise transfer recovered materials to the county or its designee. If an owner places

recovered materials in receptacles or delivers recovered materials to specific locations, receptacles, and facilities that are owned or operated by the county or its designee, then ownership of these materials is transferred to the county or its designee.

(7) Include any other proper matter.

(b) Any ordinance adopted pursuant to this section shall be consistent with and supplementary to any rules adopted by the Commission for Health Services or the Department of Environment and Natural Resources.

(c) The board of commissioners of a county shall consider alternative sites and socioeconomic and demographic data and shall hold a public hearing prior to selecting or approving a site for a new sanitary landfill that receives residential solid waste that is located within one mile of an existing sanitary landfill within the State. The distance between an existing and a proposed site shall be determined by measurement between the closest points on the outer boundary of each site. The definitions set out in G.S. 130A-290 apply to this subsection. As used in this subsection:

(1) "Approving a site" refers to prior approval of a site under G.S. 130A-294(a)(4).

(2) "Existing sanitary landfill" means a sanitary landfill that is in operation or that has been in operation within the five-year period immediately prior to the date on which an application for a permit is submitted.

(3) "New sanitary landfill" means a sanitary landfill that includes areas not within the legal description of an existing sanitary landfill as set out in the permit for the existing sanitary landfill.

(4) "Socioeconomic and demographic data" means the most recent socioeconomic and demographic data compiled by the United States Bureau of the Census and any additional socioeconomic and demographic data submitted at the public hearing.

(d) As used in this section, "solid waste" means nonhazardous solid waste, that is, solid waste as defined in G.S. 130A-290 but not including hazardous waste.

(e) A county may, as a condition of approval of any permit for a subdivision, clearing, and development of land or construction of buildings within the planning jurisdiction of the county, regulate and prohibit the open burning of trees, limbs, stumps, and construction debris associated with the permitted activity. Agricultural, horticultural, and silvacultural activities which are exempt by law from requirements of a county permit for subdivision, clearing, and development of land or construction of buildings within the planning jurisdiction of the county are not made subject to such permitting by this subsection."

PART III. APPLICABILITY AND EFFECTIVE DATE

Section 3. Section 1 of this act applies to Carteret, Orange, and Pender Counties only. Section 2 of this act applies to Orange County only, except that it does not apply to Carr and Cheeks Precincts.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law on the date it was ratified.

H.B. 684 **SESSION LAW 2000-108**

AN ACT AUTHORIZING THE CITY OF KINSTON AND THE TOWNS OF APEX, CARY, GARNER, AND MORRISVILLE TO ADOPT ORDINANCES REGULATING REMOVAL, REPLACEMENT, AND PRESERVATION OF TREES AND SHRUBS WITHIN THE TOWNS AND THE TOWNS' EXTRATERRITORIAL PLANNING JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. In order to preserve and enhance one of the most valuable natural resources of the community and to protect the safety and welfare of its citizens, a municipality may adopt ordinances to regulate the planting, removal, and preservation of trees and shrubs on public and private property within the municipality. Any ordinance adopted pursuant to this section shall exclude property to be developed for single-family or duplex residential uses and shall exclude normal forestry activities conducted pursuant to a forestry management plan prepared or approved by a forester registered pursuant to Chapter 89B of the General Statutes.

Section 2. Prior to adopting an ordinance authorized by Section 1 of this act, a public hearing shall be held before the municipality's governing board. Notice of the hearing shall be given in accordance with G.S. 160A-364.

Section 3. This act shall apply only to the City of Kinston and the Towns of Apex, Cary, Garner, and Morrisville and to the areas within those towns' extraterritorial planning jurisdiction under Article 19 of Chapter 160A of the General Statutes.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law on the date it was ratified.

H.B. 1854 **SESSION LAW 2000-109**

AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEES AND THE INSURANCE REGULATORY CHARGE, TO INCREASE COURT COSTS, TO INCREASE JAIL FEES FOR

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PERSONS PAYING JAIL FEES PURSUANT TO PROBATIONARY SENTENCES, TO INCREASE THE FEE IMPOSED FOR EMERGENCY PLANNING, TO AUTHORIZE CERTAIN CHANGES IN PERMITS FOR OVERSIZE LOADS AND ESTABLISH PENALTIES FOR PERMIT VIOLATIONS, TO AUTHORIZE AGENCIES TO PROVIDE ACCESS TO SERVICES THROUGH ELECTRONIC AND DIGITAL TRANSACTIONS AND TO IMPOSE A FEE FOR THOSE TRANSACTIONS, AND TO REPEAL THE SUNSET OF THE WHITE GOODS TAX AND DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY ISSUES RELATED TO THE SCRAP TIRE DISPOSAL TAX AND THE WHITE GOODS DISPOSAL TAX.

The General Assembly of North Carolina enacts:

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PART I. PUBLIC UTILITY REGULATORY FEE

Section 1. The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is nine-hundredths percent (0.09%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2000.

PART II. NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION REGULATORY FEE

Section 2. The annual fee imposed on The North Carolina Electric Membership Corporation under G.S. 62-302(b1) for the 2000-2001 fiscal year is two hundred thousand dollars ($200,000).

PART III. INSURANCE REGULATORY CHARGE

Section 3. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is seven percent (7%) for the 2000 calendar year.

PART IV. COURT COSTS FOR TECHNOLOGY

Section 4.(a) G.S. 7A-304(a)(4) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

. . .

(4) For support of the General Court of Justice, the sum of ~~sixty-one dollars ($61.00)~~ sixty-five dollars ($65.00) in the district court, including cases before a magistrate, and the sum of ~~sixty-eight dollars ($68.00)~~ seventy-two dollars ($72.00) in the superior court, to be remitted to the State Treasurer.

. . . ."

Section 4.(b) G.S. 7A-305(a)(2) reads as rewritten:

"(a) In every civil action in the superior or district court the following costs shall be assessed:

. . .

(2) For support of the General Court of Justice, the sum of ~~fifty-five dollars ($55.00)~~ fifty-nine dollars ($59.00) in the superior court, and the sum of ~~forty dollars ($40.00)~~ forty-four dollars ($44.00) in the district court except that if the case is assigned to a magistrate the sum shall be ~~twenty-eight dollars ($28.00).~~ thirty-three dollars ($33.00). Sums collected under this subsection shall be remitted to the State Treasurer.

. . . ."

Section 4.(c) G.S. 7A-306(a) and (b) read as rewritten:

"*§ 7A-306. Costs in special proceedings.*

(a) In every special proceeding in the superior court, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of ten dollars ($10.00) to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(2) For support of the General Court of Justice the sum of ~~twenty-six dollars ($26.00).~~ thirty dollars ($30.00). In addition, in proceedings involving land, except boundary disputes, if the fair market value of the land involved is over one hundred dollars ($100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars ($100.00) of value, or major fraction thereof, not to exceed a maximum additional sum of two hundred dollars ($200.00). Fair market value is determined by the sale price if there is

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a sale, the appraiser's valuation if there is no sale, or the appraised value from the property tax records if there is neither a sale nor an appraiser's valuation. Sums collected under this subsection shall be remitted to the State Treasurer.

(b) The facilities fee and ~~twenty-six dollars ($26.00)~~ thirty dollars ($30.00) of the General Court of Justice fee are payable at the time the proceeding is initiated.

. . . ."

Section 4.(d) G.S. 7A-307(a) and (b) read as rewritten:

"(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, and in collections of personal property by affidavit, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of ten dollars ($10.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(2) For support of the General Court of Justice, the sum of ~~twenty-six dollars ($26.00),~~ thirty dollars ($30.00), plus an additional forty cents (40¢) per one hundred dollars ($100.00), or major fraction thereof, of the gross estate, not to exceed three thousand dollars ($3,000). Gross estate shall include the fair market value of all personalty when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be ~~ten dollars ($10.00).~~ fifteen dollars ($15.00). Sums collected under this subsection shall be remitted to the State Treasurer.

(2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars ($100.00), or major fraction, of the gross estate, not to exceed three thousand dollars ($3,000), shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A

of the General Statutes. Instead, a fee of ~~fifteen dollars ($15.00)~~ twenty dollars ($20.00) shall be assessed on the filing of each annual and final account.

(2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.

(3) For probate of a will without qualification of a personal representative, the clerk shall assess a facilities fee as provided in subdivision (1) of this subsection and shall assess for support of the General Court of Justice, the sum of ~~seventeen dollars ($17.00).~~ twenty dollars ($20.00).

(b) In collections of personal property by affidavit, the facilities fee and ~~twenty-six dollars ($26.00)~~ thirty dollars ($30.00) of the General Court of Justice fee shall be paid at the time of filing the qualifying affidavit pursuant to G.S. 28A-25-1. In all other cases, these fees shall be paid at the time of filing of the first inventory. If the sole asset of the estate is a cause of action, ~~the thirty dollars ($30.00)~~ these fees shall be paid at the time of the qualification of the fiduciary.

. . . ."

Section 4.(e) G.S. 7A-308(a)(1) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

(1) Foreclosure under power of sale in deed of trust or mortgage ~~$30.00~~ $40.00

If the property is sold under the power of sale, an additional amount will be charged, determined by the following formula: thirty cents (30¢) per one hundred dollars ($100.00), or major fraction thereof, of the final sale price. If the amount determined by the formula is less than ten dollars ($10.00), a minimum ten dollar ($10.00) fee will be collected. If the amount determined by the formula is more than two hundred dollars ($200.00), a maximum two hundred dollar ($200.00) fee will be collected."

PART V. JAIL FEE FOR LOCAL GOVERNMENTS

Section 5. G.S. 7A-313 reads as rewritten:

"§ *7A-313. Uniform jail fees.*

~~Only persons~~ Persons who are lawfully confined in jail awaiting ~~trial, or who are ordered to pay jail fees pursuant to a probationary sentence,~~ trial shall be liable to the county or municipality maintaining the jail in the sum of five dollars ($5.00) for each 24 hours' confinement, or fraction thereof, except that a person so confined shall not be liable for this fee if the case or proceeding against him is dismissed, or if acquitted, or if judgment is arrested, or if probable cause is not found, or if the grand jury fails to return a true bill.

Persons who are ordered to pay jail fees pursuant to a probationary sentence shall be liable to the county or municipality maintaining the jail at the same per diem rate paid by the Department of Correction to

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local jails for maintaining a prisoner, as set by the General Assembly in its appropriations acts."

PART VI. INCREASE FEE FOR EMERGENCY PLANNING

Section 6. G.S. 166A-6.1(b) reads as rewritten:

"(b) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the Department of Crime Control and Public Safety, for the use of the Division of Radiation Protection ~~Division~~ of the Department of Environment and Natural Resources, an annual fee of ~~eighteen thousand dollars ($18,000)~~ thirty-six thousand dollars ($36,000) for each fixed nuclear facility ~~which~~ that is located within this State or has a Plume Exposure Pathway Emergency Planning Zone of which any part is located within this State. This fee shall be applied to the costs of planning and implementing emergency response activities as are required by the Federal Emergency Management Agency for the operation of nuclear facilities. ~~Said~~ This fee is to be paid no later than July 31 of each year."

PART VII. OVERSIZE LOAD PERMITS AND PENALTIES

Section 7.(a) G.S. 20-119(d) reads as rewritten:

"(d) ~~Violation~~ For each violation of any of the terms or conditions of a special permit issued under this section ~~shall be a Class 3 misdemeanor. A person convicted of a Class 3 misdemeanor under this section shall be subject to a fine of not more than five hundred dollars ($500.00).~~ the Department of Transportation may assess a separate civil penalty against the registered owner of the vehicle as follows:

(1) A fine of five hundred dollars ($500.00) for any of the following: operating without a permit, moving a load off the route specified in the permit, falsifying information to obtain a permit, failing to comply with dimension restrictions of a permit, or failing to comply with escort vehicle requirements.

(2) A fine of two hundred fifty dollars ($250.00) for moving loads beyond the distance allowances of an annual permit covering the movement of house trailers from the retailer's premises or for operating in violation of time of travel restrictions.

(3) A fine of one hundred dollars ($100.00) for any other violation of the permit conditions or requirements imposed by applicable regulations.

The Department of Transportation may refuse to issue additional permits or suspend existing permits if there are repeated violations of subdivision (1) or (2) of this subsection."

Section 7.(b) G.S. 20-140 is amended by adding a new subsection to read:

"(f) A person is guilty of the Class 2 misdemeanor of reckless driving if the person drives a commercial motor vehicle carrying a load that is subject to the permit requirements of G.S. 20-119 upon a highway or any public vehicular area either:

(1) Carelessly and heedlessly in willful or wanton disregard of the rights or safety of others; or

(2) Without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property."

Section 7.(c) G.S. 20-141 is amended by adding a new subsection to read:

"(j3) A person is guilty of a Class 2 misdemeanor if the person drives a commercial motor vehicle carrying a load that is subject to the permit requirements of G.S. 20-119 upon a highway or any public vehicular area at a speed in excess of 15 miles per hour above either:

(1) The posted speed; or

(2) The restricted speed, if any, of the permit, or if no permit was obtained, the speed that would be applicable to the load if a permit had been obtained."

Section 7.(d) G.S. 20-16(c) reads as rewritten:

"(c) The Division shall maintain a record of convictions of every person licensed or required to be licensed under the provisions of this Article as an operator and shall enter therein records of all convictions of such persons for any violation of the motor vehicle laws of this State and shall assign to the record of such person, as of the date of commission of the offense, a number of points for every such conviction in accordance with the following schedule of convictions and points, except that points shall not be assessed for convictions resulting in suspensions or revocations under other provisions of laws: Further, any points heretofore charged for violation of the motor vehicle inspection laws shall not be considered by the Division of Motor Vehicles as a basis for suspension or revocation of driver's license:

Schedule of Point Values

Passing stopped school bus	5
Reckless driving	4
Hit and run, property damage only	4
Following too close	4
Driving on wrong side of road	4
Illegal passing	4
Running through stop sign	3
Speeding in excess of 55 miles per hour	3
Failing to yield right-of-way	3
Running through red light	3
No driver's license or license expired more than one year	3
Failure to stop for siren	3
Driving through safety zone	3
No liability insurance	3

Failure to report accident where such report is required	3
Speeding in a school zone in excess of the posted school zone speed limit	3
All other moving violations	2
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1

Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle

Passing stopped school bus	8
Rail-highway crossing violation	6
Careless and reckless driving in violation of G.S. 20-140(f)	6
Speeding in violation of G.S. 20-141(j3)	6
Reckless driving	5
Hit and run, property damage only	5
Following too close	5
Driving on wrong side of road	5
Illegal passing	5
Running through stop sign	4
Speeding in excess of 55 miles per hour	4
Failing to yield right-of-way	4
Running through red light	4
No driver's license or license expired more than one year	4
Failure to stop for siren	4
Driving through safety zone	4
No liability insurance	4
Failure to report accident where such report is required	4
Speeding in a school zone in excess of the posted school zone speed limit	4
Possessing alcoholic beverages in the passenger area of a commercial motor vehicle	4
All other moving violations	3
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1

The above provisions of this subsection shall only apply to violations and convictions which take place within the State of North Carolina. The Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle shall not apply to any commercial motor vehicle known as an "aerial lift truck" having a hydraulic arm and bucket station, and to any commercial motor vehicle known as a "line truck" having a hydraulic lift for cable, if the vehicle is owned, operated by or under contract to a public utility, electric or telephone membership corporation or municipality and used in connection with installation, restoration or maintenance of utility services.

No points shall be assessed for conviction of the following offenses:

Overloads
Over length
Over width
Over height
Illegal parking
Carrying concealed weapon
Improper plates
Improper registration
Improper muffler
Improper display of license plates or dealers' tags
Unlawful display of emblems and insignia
Failure to display current inspection certificate.

In case of the conviction of a licensee of two or more traffic offenses committed on a single occasion, such licensee shall be assessed points for one offense only and if the offenses involved have a different point value, such licensee shall be assessed for the offense having the greater point value.

Upon the restoration of the license or driving privilege of such person whose license or driving privilege has been suspended or revoked because of conviction for a traffic offense, any points that might previously have been accumulated in the driver's record shall be cancelled.

Whenever any licensee accumulates as many as seven points or accumulates as many as four points during a three-year period immediately following reinstatement of his license after a period of suspension or revocation, the Division may request the licensee to attend a conference regarding such licensee's driving record. The Division may also afford any licensee who has accumulated as many as seven points or any licensee who has accumulated as many as four points within a three-year period immediately following reinstatement of his license after a period of suspension or revocation an opportunity to attend a driver improvement clinic operated by the Division and, upon the successful completion of the course taken at the clinic, three points shall be deducted from the licensee's conviction record; provided, that only one deduction of points shall be made on behalf of any licensee within any five-year period.

When a license is suspended under the point system provided for herein, the first such suspension shall be for not more than 60 days; the second such suspension shall not exceed six months and any subsequent suspension shall not exceed one year.

Whenever the driver's license of any person is subject to suspension under this subsection and at the same time also subject to suspension or revocation under other provisions of laws, such suspensions or revocations shall run concurrently.

In the discretion of the Division, a period of probation not to exceed one year may be substituted for suspension or for any unexpired period of suspension under subsections (a)(1) through (a)(10a) of this section. Any violation of probation during the probation period shall

result in a suspension for the unexpired remainder of the suspension period. Any accumulation of three or more points under this subsection during a period of probation shall constitute a violation of the condition of probation."

Section 7.(e) G.S. 20-17.4(d) reads as rewritten:

"(d) Less Than a Year. -- A person is disqualified from driving a commercial motor vehicle for 60 days if that person is convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period. For purposes of this subsection, a 'serious violation' includes violations of G.S. 20-140(f) and G.S. 20-141(j3)."

Section 7.(f) G.S. 20-119(b) reads as rewritten:

"(b) Upon the issuance of a special permit for an oversize or overweight vehicle by the Department of Transportation in accordance with this section, the applicant shall pay to the Department for a single trip permit a fee of ~~ten~~ twelve dollars ~~($10.00)~~ ($12.00) ~~for a single trip permit and fifty dollars ($50.00) for an annual permit issued for a single vehicle. Any person who operates more than one vehicle may obtain an annual permit for all oversize or overweight vehicles operated by the person upon payment of an annual fee based on the following schedule:~~

~~No. of Vehicles~~	~~Annual Permit Rate Per Vehicle~~
~~First 50~~	~~$50.00~~
~~51 to 100~~	~~40.00~~
~~101 to 150~~	~~30.00~~
~~Over 150~~	~~20.00~~

~~Any vehicle required to obtain an overweight permit shall not be charged an additional fee for oversize. Any vehicle required to obtain an oversize permit shall not be charged an additional fee for overweight.~~ for each dimension over lawful dimensions, including height, length, width, and weight up to 132,000 pounds. For overweight vehicles, the applicant shall pay to the Department for a single trip permit in addition to the fee imposed by the previous sentence a fee of three dollars ($3.00) per 1,000 pounds over 132,000 pounds.

Upon the issuance of an annual permit for a single vehicle, the applicant shall pay a fee in accordance with the following schedule:

Commodity:	Annual Fee:
Annual Permit to Move House Trailers	$200.00
Annual Permit to Move Other Commodities	$100.00

In addition to the fees set out in this subsection, applications for permits that require an engineering study for pavement or structures or other special conditions or considerations shall be accompanied by a nonrefundable application fee of one hundred dollars ($100.00).

This subsection ~~shall~~ does not apply to farm equipment or machinery being used at the time for agricultural purposes, nor to the

moving of a house as provided for by the license and permit requirements of Article 16 of this Chapter. Fees will not be assessed for permits for oversize and overweight vehicles issued to any agency of the United States Government or the State of North Carolina, its agencies, institutions, subdivisions, or municipalities if the vehicle is registered in the name of the agency."

Section 7.(g) It is the intent of the General Assembly that the permit fees provided in G.S. 20-119 shall be adjusted periodically to assure that the revenue generated by the fees is equal to the cost to the Department of administering the Oversize/Overweight Permit Unit Program within the Division of Highways. At least every two years, the Department shall review and compare the revenue generated by the permit fees and the cost of administering the program, and shall report to the Joint Legislative Transportation Oversight Committee created in G.S. 120-70.50 its recommendations for adjustments to the permit fees to bring the revenues and the costs into alignment.

PART VIII. FEES FOR ACCESS TO AGENCY SERVICES THROUGH ELECTRONIC AND DIGITAL TRANSACTIONS

Section 8. Article 11A of Chapter 66 of the General Statutes is amended by adding a new section to read:

"*§ 66-58.12. Agencies may provide access to services through electronic and digital transactions; fees authorized.*

(a) Public agencies are encouraged to maximize citizen and business access to their services through the use of electronic and digital transactions. A public agency may determine, through program and transaction analysis, which of its services may be made available to the public through electronic means, including the Internet. The agency shall identify any inhibitors to electronic transactions between the agency and the public, including legal, policy, financial, or privacy concerns and specific inhibitors unique to the agency or type of transaction. An agency shall not provide a transaction through the Internet that is impractical, unreasonable, or not permitted by laws pertaining to privacy or security.

(b) An agency may charge a fee to cover its costs of permitting a person to complete a transaction through the World Wide Web or other means of electronic access. The fee may be applied on a per transaction basis and may be calculated either as a flat fee or a percentage fee, as determined under an agreement between a person and a public agency. The fee may be collected by the agency or by its third party agent.

(c) The fee imposed under subsection (b) of this section must be approved by the Information Resource Management Commission, in consultation with the Joint Legislative Commission on Governmental Operations. The revenue derived from the fee must be credited to a nonreverting agency reserve account. The funds in the account may be expended only for e-commerce initiatives and projects approved by the Information Resource Management Commission, in consultation with the Joint Select Committee on Information Technology. For

purposes of this subsection, the term 'public agencies' does not include a county, unit, special district, or other political subdivision of government.

(d) This section does not apply to the Judicial Department."

PART IX. WHITE GOODS SUNSET REPEAL

Section 9.(a) Section 11 of Chapter 471 of the 1993 Session Laws, as amended by Section 15.1(b) of Chapter 769 of the 1993 Session Laws and Section 7 of S.L. 1998-24, reads as rewritten:

"Sec. 11. Sections 1 through 5 of this act and this section become effective January 1, 1994. ~~Section 3 of this act expires July 1, 2001. Section 6 of this act becomes effective July 1, 2001. Sections 7, 8, and 9 of this act become effective July 1, 2002.~~

~~The repeal of the tax imposed by Section 3 of this act does not affect the rights or liabilities of the State, a taxpayer, or another person that arose during the time the tax was in effect.~~ The first report submitted by the Department to the Environmental Review Commission under G.S. 130A-309.85, as enacted by this act, shall cover the period from January 1, 1994, to June 30, 1994."

Section 9.(b) The Department of Environment and Natural Resources shall study issues related to the scrap tire disposal tax and the white goods disposal tax. This study shall include an evaluation of whether the amount of the scrap tire disposal tax and the amount of the white goods disposal tax should be altered and whether the distribution of the proceeds of these taxes should be reapportioned. The Department shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission no later than October 1, 2000.

PART X. EFFECTIVE DATES

Section 10.(a) Public Utility Regulatory Fee. -- Section 1 of this act becomes effective July 1, 2000.

Section 10.(b) North Carolina Electric Membership Corporation Regulatory Fee. -- Section 2 of this act becomes effective July 1, 2000.

Section 10.(c) Insurance Regulatory Charge. -- Section 3 of this act is effective when it becomes law.

Section 10.(d) Increase Court Costs. -- Section 4 of this act becomes effective July 15, 2000, and applies to all costs assessed or collected on and after that date.

Section 10.(e) Jail Fees for Local Governments. -- Section 5 of this act becomes effective July 1, 2000, and applies to sentences or portions of sentences being served on or after that date.

Section 10.(f) Increase Fee for Emergency Planning. -- Section 6 of this act becomes effective July 1, 2000.

Section 10.(g) Oversize Load Permits and Penalties. -- Section 7(f) of this act becomes effective October 1, 2000. The first report required by Section 7(g) of this act is due December 1, 2002.

Section 10.(h) Fees for Access to Agency Services Through Electronic and Digital Transactions. -- Section 8 is effective when it becomes law.

Section 10.(i) White Goods Sunset Repeal. -- Section 9 of this act is effective when it becomes law.

Section 10.(j) Remainder. -- The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law upon approval of the Governor at 10:09 a.m. on the 13th day of July, 2000.

S.B. 897 **SESSION LAW 2000-110**

AN ACT TO PROVIDE TITLE PROTECTION FOR THE SAFETY PROFESSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 37.

"Safety Profession.

"*§ 90-646. Definitions.*

The following definitions apply in this Article:

(1) Associate Safety Professional (ASP). -- A person who has met the education, experience, and examination requirements established by the Board of Certified Safety Professionals for an Associate Safety Professional.

(2) Board of Certified Safety Professionals (BCSP). -- A nonprofit corporation, incorporated in Illinois in 1969, established to improve the practice and educational standards of the profession of safety by certifying individuals who meet its education, experience, examination, and maintenance requirements.

(3) Certified Safety Professional (CSP). -- A person who has met the education, experience, and examination requirements established by the Board of Certified Safety Professionals for a Certified Safety Professional.

"*§ 90-647. Unlawful acts; injunctive relief; exclusion.*

(a) No person shall represent himself or herself as a Certified Safety Professional or Associate Safety Professional unless that person is certified by the Board of Certified Safety Professionals and has duly authorized the Board to file with the office of the Secretary of State all information required by G.S. 90-649.

(b) A violation of this section constitutes an unfair trade practice under G.S. 75-1.1, and a court may impose a civil penalty against the defendant and shall be empowered to issue a restraining order to prevent further use of the title.

"*§ 90-648. Exemptions and limitations.*

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(a) This Article does not apply to:

(1) A person who holds a license issued by a State board, commission, or other agency, is engaged in activities authorized by his or her license, and does not represent himself or herself as an Associate Safety Professional or Certified Safety Professional.

(2) A person who practices within the scope of safety, injury, or illness prevention and does not use the title 'Associate Safety Professional' or 'Certified Safety Professional', the initials 'ASP' or 'CSP', or otherwise represents himself or herself to the public as an Associate Safety Professional or Certified Safety Professional.

(3) A person who is licensed as an architect under Chapter 83A of the General Statutes or any person working under the supervision of a licensed architect.

(4) A person who is licensed as a professional engineer under Chapter 89C of the General Statutes or any person working under the supervision of a licensed professional engineer.

(b) Nothing in this Article shall permit the practice of engineering by persons who are not licensed under Chapter 89C of the General Statutes.

(c) Nothing in this Article shall permit the practice of architecture by persons not licensed under Chapter 83A of the General Statutes.

"*§ 90-649. Certification registry.*

The Board shall file with the Secretary of State the name, address, telephone number, and date of certification for all Associate Safety Professionals and Certified Safety Professionals. The Board shall remit a filing fee of thirty-five dollars ($35.00) to the Secretary of State with each certification filed. All fees paid to the Department shall be used to pay the costs incurred in administering and enforcing this Article. The Board may require this filing fee to be paid by the person whose certification is being filed. The Board shall promptly notify the Secretary of State when a person's certification is revoked or no longer in effect.

The Secretary of State shall maintain a registry of all current Associate Safety Professionals and Certified Safety Professionals as furnished by the Board."

Section 2. This act becomes effective January 1, 2001, and applies to acts committed on or after that date.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law upon approval of the Governor at 8:32 a.m. on the 14th day of July, 2000.

S.B. 1215 **SESSION LAW 2000-111**

AN ACT TO MAKE CONFORMING CHANGES TO THE GENERAL STATUTES PERTAINING TO MEDICAL CARE COMMISSION AUTHORITY TO ADOPT RULES

REGULATING ADULT CARE HOMES AND SOCIAL SERVICES COMMISSION AUTHORITY TO ADOPT RULES PERTAINING TO PUBLIC ASSISTANCE PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131D-4.3(a) reads as rewritten:

"(a) Pursuant to G.S. ~~143B-153, the Social Services~~ 143B-165, the North Carolina Medical Care Commission shall adopt rules to ensure at a minimum, but shall not be limited to, the provision of the following by adult care homes:

~~(1) Client assessment and independent case management;~~

(2) A minimum of 75 hours of training for personal care aides performing heavy care tasks and a minimum of 40 hours of training for all personal care aides. The training for aides providing heavy care tasks shall be comparable to State-approved Certified Nurse Aide I training. For those aides meeting the 40-hour requirement, at least 20 hours shall be classroom training to include at a minimum:
   a. Basic nursing skills;
   b. Personal care skills;
   c. Cognitive, behavioral, and social care;
   d. Basic restorative services; and
   e. Residents' rights.

   A minimum of 20 hours of training shall be provided for aides in family care homes that do not have heavy care residents. Persons who either pass a competency examination developed by the Department of Health and Human Services, have been employed as personal care aides for a period of time as established by the Department, or meet minimum requirements of a combination of training, testing, and experience as established by the Department shall be exempt from the training requirements of this subdivision;

(3) Monitoring and supervision of residents;

(4) Oversight and quality of care as stated in G.S. 131D-4.1; and

(5) Adult care homes shall comply with all of the following staffing requirements:
   a. First shift (morning): 0.4 hours of aide duty for each resident (licensed capacity or resident census), or 8.0 hours of aide duty per each 20 residents (licensed capacity or resident census) plus 3.0 hours for all other residents, whichever is greater;
   b. Second shift (afternoon): 0.4 hours of aide duty for each resident (licensed capacity or resident census), or 8.0 hours of aide duty per each 20 residents plus 3.0 hours for all other residents (licensed capacity or resident census), whichever is greater;

c. Third shift (evening): 8.0 hours of aide duty per 30 or fewer residents (licensed capacity or resident census).

In addition to these requirements, the facility shall provide staff to meet the needs of the facility's heavy care residents equal to the amount of time reimbursed by Medicaid. As used in this subdivision, the term 'heavy care resident' means an individual residing in an adult care home who is defined 'heavy care' by Medicaid and for which the facility is receiving enhanced Medicaid payments for such needs."

Section 2. G.S. 131D-4.5(5) reads as rewritten:

"§ *131D-4.5. Rules adopted by Medical Care Commission.*

The Medical Care Commission shall adopt rules as follows:

. . .

(5) Implementing the due process and appeal rights for discharge and transfer of residents in adult care homes afforded by G.S. 131D-21. The rules ~~may provide for procedures comparable to those provided to nursing home residents pursuant to federal law, to Chapter 131E of the General Statutes, and to related rules.~~ shall offer at least the same protections to residents as State and federal rules and regulations governing the transfer or discharge of residents from nursing homes."

Section 3. G.S. 131D-21(17) reads as rewritten:

"§ *131D-21. Declaration of residents' rights.*

Each facility shall treat its residents in accordance with the provisions of this Article. Every resident shall have the following rights:

. . .

(17) To not be transferred or discharged from a facility except for medical reasons, the residents' own or other residents' welfare, nonpayment for the stay, or when the transfer is mandated under State or federal law. The resident shall be given at least 30 days' advance notice to ensure orderly transfer or discharge, except in the case of jeopardy to the health or safety of the resident or others in the home. The resident has the right to appeal a facility's attempt to transfer or discharge the resident pursuant to rules adopted by the ~~Secretary,~~ Medical Care Commission, and the resident shall be allowed to remain in the facility until resolution of the appeal unless otherwise provided by law. The ~~Secretary~~ Medical Care Commission shall adopt rules pertaining to the transfer and discharge of residents that offer at least the same protections to residents as State and federal rules and regulations governing the transfer or discharge of residents from nursing homes."

Section 4. G.S. 143B-153(2) reads as rewritten:

"(2) The Social Services Commission shall have the power and duty to establish standards and adopt rules and regulations:

a. For the programs of public assistance established by federal legislation and by Article 2 of Chapter 108A of the General Statutes of the State of North Carolina with the exception of the program of medical assistance established by G.S. 108A-25(b);

b. To achieve maximum cooperation with other agencies of the State and with agencies of other states and of the federal government in rendering services to strengthen and maintain family life and to help recipients of public assistance obtain self-support and self-care;

c. For the placement and supervision of dependent juveniles and of delinquent juveniles who are placed in the custody of the Office of Juvenile Justice, and payment of necessary costs of foster home care for needy and homeless children as provided by G.S. 108A-48; ~~and~~

d. For the payment of State funds to private child-placing agencies as defined in G.S. 131D-10.2(4) and residential child care facilities as defined in G.S. 131D-10.2(13) for care and services provided to children who are in the custody or placement responsibility of a county department of social ~~services.~~ services; and

e. For client assessment and independent case management pertaining to the functions of county departments of social services for public assistance programs authorized under paragraph a. of this subdivision."

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law upon approval of the Governor at 8:33 a.m. on the 14th day of July, 2000.

S.B. 1234 **SESSION LAW 2000-112**

AN ACT TO REQUIRE THAT ADULT CARE HOMES AND NURSING HOMES ENSURE THAT RESIDENTS AND EMPLOYEES ARE IMMUNIZED AGAINST INFLUENZA VIRUS AND THAT RESIDENTS ARE ALSO IMMUNIZED AGAINST PNEUMOCOCCAL DISEASE.

The General Assembly of North Carolina enacts:

Section 1. Effective September 1, 2000, Article 1 of Chapter 131D of the General Statutes is amended by adding the following new section to read:

"§ *131D-9. Immunization of residents of adult care homes.*

(a) Except as provided in subsection (e) of this section, an adult care home licensed under this Article shall require residents to be immunized against pneumococcal disease.

(b) Upon admission, an adult care home shall notify the resident of the immunization requirements of this section and shall request that the resident agree to be immunized against pneumococcal disease.

(c) An adult care home shall document the immunization against pneumococcal disease for each resident. Upon finding that a resident is lacking the immunization, or if the adult care home is unable to verify that the individual has received the required immunization, the adult care home shall provide or arrange for immunization. The immunization and documentation required shall occur not later than November 30 of each year.

(d) For an individual who becomes a resident of the adult care home after November 30 but before March 30 of the following year, the adult care home shall determine the individual's status for the immunization required under this section, and if found to be deficient, the adult care home shall provide the immunization.

(e) No individual shall be required to receive vaccine under this section if the vaccine is medically contraindicated, or if the vaccine is against the individual's religious beliefs, or if the individual refuses the vaccine after being fully informed of the health risks of not being immunized.

(f) Notwithstanding any other provision of law to the contrary, the Health Services Commission shall have the authority to adopt rules to implement the immunization requirements of this section."

Section 2. Effective September 1, 2001, G.S. 131D-9, as enacted by Section 1 of this act, reads as rewritten:

"§ *131D-9. Immunization of employees and residents of adult care homes.*

(a) Except as provided in subsection (e) of this section, an adult care home licensed under this Article shall require residents and employees to be immunized annually against influenza virus and shall require residents to also be immunized against pneumococcal disease.

(b) Upon admission, an adult care home shall notify the resident of the immunization requirements of this section and shall request that the resident agree to be immunized against influenza virus and pneumococcal disease.

(b1) An adult care home shall notify every employee of the immunization requirements of this section and shall request that the employee agree to be immunized against the influenza virus.

(c) An adult care home shall document the annual immunization against influenza virus and the immunization against pneumococcal disease for each ~~resident.~~ resident and each employee, as required under this section. Upon finding that a resident is lacking ~~the immunization,~~ one or both of these immunizations or that an employee has not been immunized against influenza virus, or if the adult care home is unable to verify that the individual has received the required immunization, the adult care home shall provide or arrange for immunization. The immunization and documentation required shall occur not later than November 30 of each year.

(d) For an individual who becomes a resident of or who is newly employed by the adult care home after November 30 but before March 30 of the following year, the adult care home shall determine the individual's status for the ~~immunization~~ immunizations required under this section, and if found to be deficient, the adult care home shall provide the immunization.

(e) No individual shall be required to receive vaccine under this section if the vaccine is medically contraindicated, or if the vaccine is against the individual's religious beliefs, or if the individual refuses the vaccine after being fully informed of the health risks of not being immunized.

(f) Notwithstanding any other provision of law to the contrary, the Health Services Commission shall have the authority to adopt rules to implement the immunization requirements of this section.

(g) As used in this section, 'employee' means an individual who is a part-time or full-time employee of the adult care home."

Section 3. Effective September 1, 2000, Part A of Article 6 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"*§ 131E-113. Immunization of residents.*

(a) Except as provided in subsection (e) of this section, a nursing home licensed under this Part shall require residents to be immunized against pneumococcal disease.

(b) Upon admission, a nursing home shall notify the resident of the immunization requirements of this section and shall request that the resident agree to be immunized against pneumococcal disease.

(c) A nursing home shall document the immunization against pneumococcal disease for each resident. Upon finding that a resident is lacking the immunization, or if the nursing home is unable to verify that the individual has received the required immunization, the nursing home shall provide or arrange for immunization. The immunization and documentation required shall occur not later than November 30 of each year.

(d) For an individual who becomes a resident of the nursing home after November 30 but before March 30 of the following year, the nursing home shall determine the individual's status for the immunization required under this section, and if found to be deficient, the nursing home shall provide the immunization.

(e) No individual shall be required to receive vaccine under this section if the vaccine is medically contraindicated, or if the vaccine is against the individual's religious beliefs, or if the individual refuses the vaccine after being fully informed of the health risks of not being immunized.

(f) Notwithstanding any other provision of law to the contrary, the Health Services Commission shall have the authority to adopt rules to implement the immunization requirements of this section."

Section 4. Effective September 1, 2001, G.S. 131E-113, as enacted by Section 3 of this act, reads as rewritten:

"*§ 131E-113. Immunization of employees and residents.*

(a) Except as provided in subsection (e) of this section, a nursing home licensed under this Part shall require residents and employees to be immunized against influenza virus and shall require residents to also be immunized against pneumococcal disease.

(b) Upon admission, a nursing home shall notify the resident of the immunization requirements of this section and shall request that the resident agree to be immunized against influenza virus and pneumococcal disease.

(b1) A nursing home shall notify every employee of the immunization requirements of this section and shall request that the employee agree to be immunized against influenza virus.

(c) A nursing home shall document the annual immunization against influenza virus and the immunization against pneumococcal disease for each ~~resident.~~ resident and each employee, as required under this section. Upon finding that a resident is lacking one or both of these immunizations or that an employee has not been immunized against influenza virus, ~~the immunization,~~ or if the nursing home is unable to verify that the individual has received the required immunization, the nursing home shall provide or arrange for immunization. The immunization and documentation required shall occur not later than November 30 of each year.

(d) For an individual who becomes a resident of or who is newly employed by the nursing home after November 30 but before March 30 of the following year, the nursing home shall determine the individual's status for the ~~immunization~~ immunizations required under this section, and if found to be deficient, the nursing home shall provide the immunization.

(e) No individual shall be required to receive vaccine under this section if the vaccine is medically contraindicated, or if the vaccine is against the individual's religious beliefs, or if the individual refuses the vaccine after being fully informed of the health risks of not being immunized.

(f) Notwithstanding any other provision of law to the contrary, the Health Services Commission shall have the authority to adopt rules to implement the immunization requirements of this section.

(g) As used in this section, 'employee' means an individual who is a part-time or full-time employee of the nursing home."

Section 5. The Department of Health and Human Services shall make available to nursing homes and adult care homes educational and informational materials pertaining to vaccinations required under this act.

Section 6. G.S. 130A-29(c) is amended by adding the following new subdivision to read:

"(9) Implementing immunization requirements for adult care homes as provided in G.S. 131D-9 and for nursing homes as provided in G.S. 131E-113."

Section 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law upon approval of the Governor at 8:34 a.m. on the 14th day of July, 2000.

S.B. 1269 **SESSION LAW 2000-113**

AN ACT TO LIMIT LIABILITY WHEN A PERSON USES AN AUTOMATED EXTERNAL DEFIBRILLATOR TO RENDER EMERGENCY HEALTH CARE TREATMENT TO ATTEMPT TO SAVE THE LIFE OF A PERSON WHO IS IN OR WHO APPEARS TO BE IN CARDIAC ARREST.

The General Assembly of North Carolina enacts:

Section 1. Article 1B of Chapter 90 of the General Statutes is amended by adding a new section to read:

"*§ 90-21.15. Emergency treatment using automated external defibrillator; immunity.*

(a) It is the intent of the General Assembly that, when used in accordance with this section, an automated external defibrillator may be used during an emergency for the purpose of attempting to save the life of another person who is in or who appears to be in cardiac arrest.

(b) For purposes of this section:

(1) 'Automated external defibrillator' means a device, heart monitor, and defibrillator that meets all of the following requirements:

a. The device has received approval from the United States Food and Drug Administration of its premarket notification filed pursuant to 21 U.S.C. § 360(k), as amended.

b. The device is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and is capable of determining, without intervention by an operator, whether defibrillation should be performed.

c. Upon determining that defibrillation should be performed, the device automatically charges and requests delivery of, or delivers, an electrical impulse to an individual's heart.

(2) 'Person' means an individual, corporation, limited liability company, partnership, association, unit of government, or other legal entity.

(3) 'Training' means a nationally recognized course or training program in cardiopulmonary resuscitation (CPR) and automated external defibrillator use including the programs approved and provided by the:

a. American Heart Association.

b. American Red Cross.

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(c) The use of an automated external defibrillator when used to attempt to save or to save a life shall constitute 'first-aid or emergency health care treatment' under G.S. 90-21.14(a).

(d) The person who provides the cardiopulmonary resuscitation and automated external defibrillator training to a person using an automated external defibrillator, the person responsible for the site where the automated external defibrillator is located when the person has provided for a program of training, and a North Carolina licensed physician writing a prescription without compensation for an automated external defibrillator whether or not required by any federal or state law, shall be immune from civil liability arising from the use of an automated external defibrillator used in accordance with subsection (c) of this section.

(e) The immunity from civil liability otherwise existing under law shall not be diminished by the provisions of this section.

(f) Nothing in this section requires the purchase, placement, or use of automated external defibrillators by any person, entity, or agency of State, county, or local government. Nothing in this section applies to a product's liability claim against a manufacturer or seller as defined in G.S. 99B-1.

(g) In order to enhance public health and safety, a seller of an automated external defibrillator shall notify the North Carolina Department of Health and Human Services, Division of Facilities Services, Office of Emergency Medical Services of the existence, location, and type of automated external defibrillator."

Section 2. G.S. 90-18(c) reads as rewritten:

"(c) The following shall not constitute practicing medicine or surgery as defined in subsection (b) of this section:

. . .

(17) The use of an automated external defibrillator as provided in G.S. 90-21.15."

Section 3. This act becomes effective October 1, 2000, and applies to causes of action arising on or after that date.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law upon approval of the Governor at 8:35 a.m. on the 14th day of July, 2000.

S.B. 1290 **SESSION LAW 2000-114**

AN ACT TO PROHIBIT CERTAIN POLITICAL ACTIVITIES BY BOARD OF ELECTIONS MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 163 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 4A.

"Political Activities by Board of Elections Members.

"*§ 163-38. Applicability of Article.*

This Article applies to members of the State Board of Elections and of each county and municipal board of elections. With regard to prohibitions in this Article concerning candidates, referenda, and committees, the prohibitions do not apply if the candidate or referendum will not be on the ballot in an area within the jurisdiction of the board, or if the political committee or referendum committee is not involved with an election or referendum that will be on the ballot in an area within the jurisdiction of the board.

"*§ 163-39. Limitation on political activities.*

No individual subject to this Article shall:

(1) Make written or oral statements intended for general distribution or dissemination to the public at large supporting or opposing the nomination or election of one or more clearly identified candidates for public office.

(2) Make written or oral statements intended for general distribution or dissemination to the public at large supporting or opposing the passage of one or more clearly identified referendum proposals.

(3) Solicit contributions for a candidate, political committee, or referendum committee.

Individual expressions of opinion, support, or opposition not intended for general public distribution shall not be deemed a violation of this Article. Nothing in this Article shall be deemed to prohibit participation in a political party convention as a delegate. Nothing in this Article shall be deemed to prohibit a board member from making a contribution to a candidate, political committee, or referendum committee.

"*§ 163-40. Violation may be ground for removal.*

A violation of this Article may be a ground to remove a State Board of Elections member under G.S. 143B-16, a county board of elections member under G.S. 163-22(c), or a municipal board of elections member under G.S. 163-280(i). No criminal penalty shall be imposed for a violation of this Article.

"*§ 163-40.1. Definitions.*

The provisions of Article 22A of this Chapter apply to the definition and proof of terms used in this Article."

Section 2. This act becomes effective January 1, 2001.

In the General Assembly read three times and ratified this the 7th day of July, 2000.

Became law upon approval of the Governor at 8:36 a.m. on the 14th day of July, 2000.

S.B. 1316 **SESSION LAW 2000-115**

AN ACT TO REQUIRE ADDITIONAL INFORMATION PRIOR TO THE REEXAMINATION OF CANDIDATES FOR ENGINEERING AND SURVEYING LICENSURE; TO CHANGE THE ANNUAL ENGINEERING AND SURVEYING LICENSE EXPIRATION DATE FOR BUSINESSES; TO AUTHORIZE THE

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BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS TO ADOPT RULES REGULATING THE OPERATION OF ENGINEERING AND LAND SURVEYING OFFICES; AND TO AUTHORIZE SOIL SCIENTISTS LICENSED UNDER CHAPTER 89F OF THE GENERAL STATUTES TO FORM PROFESSIONAL CORPORATIONS UNDER CHAPTER 55B OF THE GENERAL STATUTES AND LIMITED LIABILITY COMPANIES UNDER CHAPTER 57C OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89C-14(e) reads as rewritten:

"(e) A candidate failing an examination may apply, and be considered by the Board, for reexamination at the end of six months. The Board shall make such reexamination charge as is necessary to defray the cost of the examination.

A candidate with a combination of three failures or unexcused absences on an examination shall only be eligible after submitting a new application with appropriate application ~~fee,~~ fee and documented evidence of actions taken by the candidate to enhance the candidate's prospects for passing the exam. A candidate with a combination of three failures or unexcused absences may only be considered by the Board for reexamination at the end of 12 ~~months.~~ months following the third failure or unexcused absence. After the end of the 12-month period, the applicant may take the examination no more than once every calendar year."

Section 2. G.S. 89C-17 reads as rewritten:

"§ *89C-17. Expirations and renewals of certificates.*

Certificates for licensure of corporations and business firms that engage in the practice of engineering or land surveying shall expire on the last day of the month of June following their issuance or renewal and shall become invalid on that date unless renewed. All other certificates ~~Certificates~~ for licensure shall expire on the last day of the month of December next following their issuance or renewal, and shall become invalid on that date unless renewed. When necessary to protect the public health, safety, or welfare, the Board shall require any evidence necessary to establish the continuing competency of engineers and land surveyors as a condition of renewal of licenses. When the Board is satisfied as to the continuing competency of an applicant, it shall issue a renewal of the certificate upon payment by the applicant of a fee fixed by the Board but not to exceed seventy-five dollars ($75.00). The secretary of the Board shall notify by mail every person licensed under this Chapter of the date of expiration of the certificate, the amount of the fee required for its renewal for one year, and any requirement as to evidence of continued competency. The notice shall be mailed at least one month in advance of the expiration date of the certificate. Renewal shall be effected at any time during the month ~~of January immediately following,~~ immediately following the month of expiration, by payment to the secretary of the Board of a

renewal fee, as determined by the Board, which shall not exceed seventy-five dollars ($75.00). Failure on the part of any registrant to renew the certificate annually in the month ~~of January,~~ immediately following the month of expiration, as required above, shall deprive the registrant of the right to practice until renewal has been effected. Renewal may be effected at any time during the first 12 months immediately following its invalidation by payment of the established renewal fee and a late penalty of one hundred dollars ($100.00). Failure of a licensee to renew the license for a period of 12 months shall require the individual, prior to resuming practice in North Carolina, to submit an application on the prescribed form, and to meet all other requirements for licensure as set forth in Chapter 89C. The secretary of the Board is instructed to remove from the official roster of engineers and land surveyors the names of all licensees who have not effected their renewal by the first day of ~~February~~ the month immediately following the ~~date of their expiration.~~ renewal period. The Board may adopt rules to provide for renewals in distress or hardship cases due to military service, prolonged illness, or prolonged absence from the State, where the applicant for renewal demonstrates to the Board that the applicant has maintained active knowledge and professional status as an engineer or land surveyor, as the case may be. It shall be the responsibility of each licensee to inform the Board promptly concerning change in address. A licensee may request and be granted inactive status. No inactive licensee may practice in this State unless otherwise exempted in this Chapter. A licensee granted inactive status shall pay annual renewal fees but shall not be subject to annual continuing professional competency requirements. A licensee granted inactive status may return to active status by meeting all requirements of the Board, including demonstration of continuing professional competency as a condition of reinstatement."

Section 3. G.S. 89C-24 reads as rewritten:

"*§ 89C-24. Licensure of corporations and business firms that engage in the practice of engineering or land surveying.*

A corporation or business firm may not engage in the practice of engineering or land surveying in this State unless it is licensed by the Board and has paid an application fee established by the Board in an amount not to exceed one hundred dollars ($100.00). A corporation or business firm is subject to the same duties and responsibilities as an individual licensee. Licensure of a corporation or business firm does not affect the requirement that all engineering or land surveying work done by the corporation or business firm be performed by or under the responsible charge of individual registrants, nor does it relieve the individual registrants within a corporation or business firm of their design and supervision responsibilities. The Board may adopt rules regulating the operation of offices and places of business of corporations and business firms licensed under this section to ensure that professional engineering and land surveying services are performed under the supervision of licensed professional engineers and land surveyors.

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This section applies to every corporation that is engaged in the practice of engineering or land surveying, regardless of when it was incorporated. A corporation that is not exempt from Chapter 55B of the General Statutes by application of G.S. 55B-15 must be incorporated under that Chapter."

Section 4. G.S. 55B-2(6) reads as rewritten:

"(6) The term 'professional service' means any type of personal or professional service of the public which requires as a condition precedent to the rendering of such service the obtaining of a license from a licensing board as herein defined, and pursuant to the following provisions of the General Statutes: Chapter 83A, 'Architects'; Chapter 84, 'Attorneys-at-Law'; Chapter 93, 'Public Accountants'; and Article 1, 'Practice of Medicine,' Article 2, 'Dentistry,' Article 6, 'Optometry,' Article 7, 'Osteopathy,' Article 8, 'Chiropractic,' Article 9A, 'Nursing Practice Act,' with regard to registered nurses, Article 11, 'Veterinarians,' Article 12A, 'Podiatrists,' Article 18A, 'Practicing Psychologists,' Article 18D, 'Occupational Therapy,' and Article 24, 'Licensed Professional Counselors,' of Chapter 90; Chapter 89C, 'Engineering and Land Surveying'; Chapter 89A, 'Landscape Architects'; Chapter 90B, 'Social Worker Certification Act' with regard to Certified Clinical Social Workers as defined by G.S. 90B-3; Chapter 89E, 'Geologists'; ~~and Chapter 89B, 'Foresters.'~~ Chapter 89B, 'Foresters'; and Chapter 89F, 'North Carolina Soil Scientist Licensing Act'."

Section 5. G.S. 55B-6(a) reads as rewritten:

"(a) Except as provided in subsection (b), a professional corporation may issue shares of its capital stock only to a licensee as defined in G.S. 55B-2, and a shareholder may voluntarily transfer such shares of stock issued to him only to another such licensee. No share or shares of any stock of such corporation shall be transferred upon the books of the corporation unless the corporation has received a certification of the appropriate licensing board that the transferee of such shares is a licensee. Provided, it shall be lawful in the case of professional corporations rendering services as defined in Chapters 83A, 89A, 89C, ~~and 89E,~~ 89E, and 89F, for non-licensed employees of such corporation to own not more than one-third of the total issued and outstanding shares of such corporation. Provided further, subject to any additional conditions that the appropriate licensing board may by rule or order impose in the public interest, it shall be lawful for individuals who are not licensees but who perform professional services on behalf of a professional corporation in another jurisdiction in which the corporation maintains an office, and who are duly licensed to perform professional services under the laws of the other jurisdiction, to be shareholders of the corporation so long as there is at least one shareholder who is a licensee as defined in G.S. 55B-2, and the corporation renders its professional services in the State only

through those shareholders that are licensed in North Carolina. Upon the transfer of any shares of such corporation to a non-licensed employee of such corporation, the corporation shall inform the appropriate licensing board of the name and address of the transferee and the number of shares issued to such nonprofessional transferee. Any share of stock of such corporation issued or transferred in violation of this section shall be null and void. No shareholder of a professional corporation shall enter into a voting trust agreement or any other type of agreement vesting in another person the authority to exercise the voting power of any or all of his stock."

Section 6. G.S. 55B-14(b) reads as rewritten:

"(b) Notwithstanding subsection (a) of this section, in the case of architectural, landscape architectural, engineering or land ~~surveying and geological services,~~ surveying, geological, and soil science services, as defined in Chapters 83A, 89A, 89C, ~~and 89E~~ 89E, and 89F respectively, one corporation may be authorized to provide such of these services where such corporation, and at least one corporate officer who is a stockholder thereof, is duly licensed by the licensing board of each such profession."

Section 7. G.S. 89F-6 reads as rewritten:

"*§ 89F-6. Corporate, limited liability company, partnership, or sole proprietorship practice of soil science.*

A corporation organized under Chapter 55B of the General Statutes, a limited liability company organized under Chapter 57C of the General Statutes, a partnership, or a sole proprietorship may engage in the practice of soil science in this State. A licensed soil scientist shall be in responsible charge of all practice of soil science by the corporation, limited liability company, partnership, or sole proprietorship."

Section 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law upon approval of the Governor at 8:37 a.m. on the 14th day of July, 2000.

S.B. 1329 **SESSION LAW 2000-116**

AN ACT TO PROVIDE FOR ADDITIONAL NOTICE OF AN APPLICATION FOR A PERMIT UNDER THE MINING ACT OF 1971, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74-50 reads as rewritten:

"*§ 74-50. Permits -- General.* (a) No operator shall engage in mining without having first obtained from the Department an operating permit that covers the affected land and that has not been terminated, revoked, suspended for the period in question, or otherwise become invalid. An operating permit may be modified from time to time to

include land neighboring the affected land, in accordance with procedures set forth in G.S. 74-52. A separate permit shall be required for each mining operation that is not on land neighboring a mining operation for which the operator has a valid permit.

(b) As used in subsection (b1) of this section:

(1) 'Permitted area' means affected land and all other land used for or designated as buffers or reserves, or used for other purposes, as delineated in a mining permit or an application for a mining permit.

(2) 'Permit boundaries' means the boundaries of a permitted area.

(3) 'Land adjoining' means any parcel or tract of land that is not owned in whole or in part by, or that is not under the control of, the applicant or operator or any lessor, affiliate, parent, or subsidiary of the applicant or operator and that is contiguous to either: (i) any parcel or tract that includes the permitted area or (ii) any parcels or tracts of land that are owned in whole or in part by or under the control of the applicant or operator or any lessor, affiliate, parent, or subsidiary of the applicant or operator and that, taken together, are contiguous to the permitted area.

(b1) At the time of ~~the~~ an application for a new mining permit or ~~permit modifications that add owners of record of lands adjoining the permit boundaries,~~ for a modification of a mining permit to add land to the permitted area, the applicant or operator shall make a reasonable effort, satisfactory to the Department, to ~~notify all owners of record of land adjoining the proposed site, and to notify the chief administrative officer of the county or municipality in which the site is located that the operator intends to conduct a mining operation on the site in question.~~ notify:

(1) The chief administrative officer of each county and municipality in which any part of the permitted area is located.

(2) The owners of record of land adjoining that lies within 1,000 feet of the permit boundaries.

(3) The owners of record of land that lies directly across and is contiguous to any highway; creek, stream, river, or other watercourse; railroad track; or utility or other public right-of-way and that lies within 1,000 feet of the permit boundaries. For purposes of this subdivision, 'highway' means a highway, as defined in G.S. 20-4.01(13) that has four lanes of travel or less and that has not been designated a part of the Interstate Highway System.

(b2) The notice shall inform the owners of record and chief administrative officers of the opportunity to submit written comments to the Department regarding the proposed mining operation and the opportunity to request a public hearing regarding the proposed mining operation. Requests for public hearing shall be made within 30 days of issuance of the notice.

(b3) When the Department receives an application for a new mining permit or for a modification of a mining permit to add land to the permitted area, the Department shall send a notice of the application to each of the following agencies with a request that each agency review and provide written comment on the application within 30 days of the date on which the request is made:

(1) Division of Air Quality, Department of Environment and Natural Resources.

(2) Division of Parks and Recreation, Department of Environment and Natural Resources.

(3) Division of Water Quality, Department of Environment and Natural Resources.

(4) Division of Water Resources, Department of Environment and Natural Resources.

(5) North Carolina Geological Survey, Division of Land Resources, Department of Environment and Natural Resources.

(6) Wildlife Resources Commission, Department of Environment and Natural Resources.

(7) Division of Archives and History, Department of Cultural Resources.

(8) United States Fish and Wildlife Service, United States Department of the Interior.

(9) Any other federal or State agency that the Department determines to be appropriate, including the Division of Coastal Management, Department of Environment and Natural Resources; the Division of Marine Fisheries, Department of Environment and Natural Resources; the Division of Waste Management, Department of Environment and Natural Resources; and the Department of Transportation.

(c) No permit shall become effective until the operator has deposited with the Department an acceptable performance bond or other security pursuant to G.S. 74-54. If at any time the bond or other security, or any part thereof, shall lapse for any reason other than a release by the Department, and the lapsed bond or security is not replaced by the operator within 30 days after notice of the lapse, the permit to which the lapsed bond or security pertains shall be automatically revoked.

(d) An operating permit shall be granted for a period not exceeding 10 years. If the mining operation terminates and the reclamation required under the approved reclamation plan is completed prior to the end of the period, the permit shall terminate. Termination of a permit shall not have the effect of relieving the operator of any obligations that the operator has incurred under an approved reclamation plan or otherwise. Where the mining operation itself has terminated, no permit shall be required in order to carry out reclamation measures under the reclamation plan."

Section 2. G.S. 74-51(c) reads as rewritten:

"(c) If the Department determines, based on public comment relevant to the provisions of this Article, that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit or ~~for permit modifications that add owners of record of lands adjoining the permit boundaries.~~ for a modification of a mining permit to add land to the permitted area, as defined in G.S. 74-50(b). The hearing shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing. The public hearing shall be held within 60 days of the end of the 30-day period within which any requests for the public hearing shall be made."

Section 3. This act becomes effective 1 October 2000.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law upon approval of the Governor at 8:38 a.m. on the 14th day of July, 2000.

S.B. 1347 **SESSION LAW 2000-117**

AN ACT TO MANDATE THE ASSESSMENT OF DRIVERS LICENSE POINTS FOR FAILURE TO RESTRAIN A CHILD IN A MOTOR VEHICLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-137.1 reads as rewritten:

"*§ 20-137.1. Child restraint systems required.*

(a) Every driver who is transporting one or more passengers of less than 16 years of age shall have all such passengers properly secured in a child passenger restraint system or seat belt which meets federal standards applicable at the time of its manufacture.

(a1) A child less than five years of age and less than 40 pounds in weight shall be properly secured in a weight-appropriate child passenger restraint system. In vehicles equipped with an active passenger-side front air bag, if the vehicle has a rear seat, a child less than five years of age and less than 40 pounds in weight shall be properly secured in a rear seat, unless the child restraint system is designed for use with air bags.

(b) The provisions of this section shall not apply: (i) to ambulances or other emergency vehicles; (ii) when the child's personal needs are being attended to; (iii) if all seating positions equipped with child passenger restraint systems or seat belts are occupied; or (iv) to vehicles which are not required by federal law or regulation to be equipped with seat belts.

(c) Any driver found responsible for a violation of this section may be punished by a penalty not to exceed twenty-five dollars ($25.00), even when more than one child less than 16 years of age was not properly secured in a restraint system. ~~Conviction of an infraction under this section has no consequence other than payment of a~~

~~penalty.~~ No driver charged under this section for failure to have a child under five years of age properly secured in a restraint system shall be convicted if he produces at the time of his trial proof satisfactory to the court that he has subsequently acquired an approved child passenger restraint system.

(d) ~~No driver license points or insurance points shall be assessed for a violation of this section; nor shall a violation constitute negligence per se or contributory negligence per se nor shall it be evidence of negligence or contributory negligence.~~

A violation of this section shall have all of the following consequences:

(1) Two drivers license points shall be assessed pursuant to G.S. 20-16.

(2) No insurance points shall be assessed.

(3) The violation shall not constitute negligence per se or contributory negligence per se.

(4) The violation shall not be evidence of negligence or contributory negligence."

Section 2. G.S. 20-16(c) reads as rewritten:

"(c) The Division shall maintain a record of convictions of every person licensed or required to be licensed under the provisions of this Article as an operator and shall enter therein records of all convictions of such persons for any violation of the motor vehicle laws of this State and shall assign to the record of such person, as of the date of commission of the offense, a number of points for every such conviction in accordance with the following schedule of convictions and points, except that points shall not be assessed for convictions resulting in suspensions or revocations under other provisions of laws: Further, any points heretofore charged for violation of the motor vehicle inspection laws shall not be considered by the Division of Motor Vehicles as a basis for suspension or revocation of driver's license:

Schedule of Point Values

Passing stopped school bus	5
Reckless driving	4
Hit and run, property damage only	4
Following too close	4
Driving on wrong side of road	4
Illegal passing	4
Running through stop sign	3
Speeding in excess of 55 miles per hour	3
Failing to yield right-of-way	3
Running through red light	3
No driver's license or license expired more than one year	3
Failure to stop for siren	3
Driving through safety zone	3
No liability insurance	3
Failure to report accident where such report is required	3
Speeding in a school zone in excess of the posted school	

zone speed limit	3
Failure to properly restrain a child in a restraint or seat belt	2
All other moving violations	2
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1

Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle

Passing stopped school bus	8
Rail-highway crossing violation	6
Reckless driving	5
Hit and run, property damage only	5
Following too close	5
Driving on wrong side of road	5
Illegal passing	5
Running through stop sign	4
Speeding in excess of 55 miles per hour	4
Failing to yield right-of-way	4
Running through red light	4
No driver's license or license expired more than one year	4
Failure to stop for siren	4
Driving through safety zone	4
No liability insurance	4
Failure to report accident where such report is required	4
Speeding in a school zone in excess of the posted school zone speed limit	4
Possessing alcoholic beverages in the passenger area of a commercial motor vehicle	4
All other moving violations	3
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1

The above provisions of this subsection shall only apply to violations and convictions which take place within the State of North Carolina. The Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle shall not apply to any commercial motor vehicle known as an "aerial lift truck" having a hydraulic arm and bucket station, and to any commercial motor vehicle known as a "line truck" having a hydraulic lift for cable, if the vehicle is owned, operated by or under contract to a public utility, electric or telephone membership corporation or municipality and used in connection with installation, restoration or maintenance of utility services.

No points shall be assessed for conviction of the following offenses:

Overloads
Over length
Over width
Over height
Illegal parking
Carrying concealed weapon

Improper plates
Improper registration
Improper muffler
Improper display of license plates or dealers' tags
Unlawful display of emblems and insignia
Failure to display current inspection certificate.

In case of the conviction of a licensee of two or more traffic offenses committed on a single occasion, such licensee shall be assessed points for one offense only and if the offenses involved have a different point value, such licensee shall be assessed for the offense having the greater point value.

Upon the restoration of the license or driving privilege of such person whose license or driving privilege has been suspended or revoked because of conviction for a traffic offense, any points that might previously have been accumulated in the driver's record shall be cancelled.

Whenever any licensee accumulates as many as seven points or accumulates as many as four points during a three-year period immediately following reinstatement of his license after a period of suspension or revocation, the Division may request the licensee to attend a conference regarding such licensee's driving record. The Division may also afford any licensee who has accumulated as many as seven points or any licensee who has accumulated as many as four points within a three-year period immediately following reinstatement of his license after a period of suspension or revocation an opportunity to attend a driver improvement clinic operated by the Division and, upon the successful completion of the course taken at the clinic, three points shall be deducted from the licensee's conviction record; provided, that only one deduction of points shall be made on behalf of any licensee within any five-year period.

When a license is suspended under the point system provided for herein, the first such suspension shall be for not more than 60 days; the second such suspension shall not exceed six months and any subsequent suspension shall not exceed one year.

Whenever the driver's license of any person is subject to suspension under this subsection and at the same time also subject to suspension or revocation under other provisions of laws, such suspensions or revocations shall run concurrently.

In the discretion of the Division, a period of probation not to exceed one year may be substituted for suspension or for any unexpired period of suspension under subsections (a)(1) through (a)(10a) of this section. Any violation of probation during the probation period shall result in a suspension for the unexpired remainder of the suspension period. Any accumulation of three or more points under this subsection during a period of probation shall constitute a violation of the condition of probation."

Section 3. This act becomes effective December 1, 2000.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law upon approval of the Governor at 8:38 a.m. on the 14th day of July, 2000.

H.B. 1021 **SESSION LAW 2000-118**

AN ACT TO AMEND ARTICLE 3 OF THE UNIFORM COMMERCIAL CODE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25-3-506 reads as rewritten:

"*§ 25-3-506. Collection of processing fee for returned checks.*

A person who accepts a check in payment for goods or services or his assignee may charge and collect a processing fee, not to exceed twenty-five dollars ($25.00), for a check on which payment has been refused by the payor bank because of insufficient funds or because the drawer did not have an account at that ~~bank if at the time the consumer presented the check to the person, a sign:~~

~~(1) Was conspicuously posted on or in the immediate vicinity of the cash register or other place where the check is received;~~

~~(2) Was in plain view of anyone paying for goods or services by check;~~

~~(3) Was no smaller than 8 by 11 inches; and~~

~~(4) Stated the amount of the fee that would be charged for returned checks.~~

~~When the drawer sends a check by mail for payment of a debt and the check is dishonored and returned, the processing fee may be collected if the drawer was given prior written notice that a fee would be charged for returned checks. Any document that clearly and conspicuously states the amount of the fee that will be charged for returned checks and is delivered to the drawer or his agent, or is mailed first-class mail to the drawer at his last known address as part of any document requesting payment of a debt satisfies this notice requirement for that payment only.~~ bank.

If a collection agency collects or seeks to collect on behalf of its principal a processing fee as specified in this section in addition to the sum payable of a check, the amount of such processing fee must be separately stated on the collection notice. The collection agency shall not collect or seek to collect from the drawer any sum other than the actual amount of the returned check and the specified processing fee."

Section 2. This act becomes effective October 1, 2000, and applies to checks presented by the consumer on or after that date.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

Became law upon approval of the Governor at 8:39 a.m. on the 14th day of July, 2000.

H.B. 1551 **SESSION LAW 2000-119**

AN ACT TO MODIFY THE AUTHORITY OF DEPARTMENT OF REVENUE LAW ENFORCEMENT AGENTS, TO ALLOW THE SECRETARY OF REVENUE TO ADMINISTER THE OATH OF OFFICE TO DEPARTMENT OF REVENUE LAW ENFORCEMENT AGENTS, TO PROVIDE A CIVIL PENALTY FOR FILING A FRIVOLOUS INCOME TAX RETURN, AND TO CHANGE THE PROCEDURES FOR LAW ENFORCEMENT REPORTING ON NON-TAX-PAID UNAUTHORIZED SUBSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-236.1 reads as rewritten:

"*§ 105-236.1. Enforcement of revenue laws by revenue law enforcement agents.*

(a) General. -- The Secretary may appoint employees of the Unauthorized Substances Tax Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the excise tax on unauthorized substances imposed by Article 2D of this Chapter. ~~The~~

The Secretary may appoint employees of the Criminal Investigations Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the following tax violations and criminal offenses:

(1) ~~the~~ The felony and misdemeanor tax violations in G.S. ~~105-236~~ 105-236.

(2) The misdemeanor tax violations in G.S. 105-449.117 and G.S. 105-449.120. ~~and to enforce any of the~~

(3) The following criminal offenses when they involve a tax imposed under Chapter 105 of the General Statutes: ~~G.S. 14-91~~

a. G.S. 14-91 (Embezzlement of State ~~Property),~~ Property).

b. G.S. 14-92 (Embezzlement of ~~Funds),~~ Funds).

c. G.S. 14-100 (Obtaining Property By False ~~Pretenses),~~ Pretenses).

d. G.S. 14-119 ~~(Forgery), and~~ (Forgery).

e. G.S. 14-120 (Uttering Forged ~~Paper),~~ Paper).

f. G.S. 14-401.18 (Sale of Certain Packages of Cigarettes).

~~The Secretary may appoint employees of the Unauthorized Substances Tax Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the excise tax on unauthorized substances imposed by Article 2D of this Chapter. To serve as a revenue law enforcement officer, an employee must be certified as a criminal justice officer under Chapter 17C of the General Statutes.~~

(b) Authority. -- A revenue law enforcement officer is a State officer with jurisdiction throughout the State within the officer's subject-matter jurisdiction. A revenue law enforcement officer may

serve and execute notices, orders, warrants, or demands issued by the Secretary or the General Court of Justice in connection with the enforcement of the officer's subject-matter jurisdiction. A revenue law enforcement officer has the full powers of arrest as provided by G.S. 15A-401 while executing the notices, orders, warrants, or demands.

(c) Qualifications. -- To serve as a revenue law enforcement officer, an employee must be certified as a criminal justice officer under Chapter 17C of the General Statutes. The Secretary may administer the oath of office to revenue law enforcement officers appointed pursuant to this section."

Section 2. G.S. 105-236 is amended by adding a new subdivision to read:

"(10a) Filing a Frivolous Return. -- If a taxpayer files a frivolous return under Part 2 of Article 4 of this Chapter, the Secretary shall assess a penalty in the amount of up to five hundred dollars ($500.00). A frivolous return is a return that meets both of the following requirements:

a. It fails to provide sufficient information to permit a determination that the return is correct or contains information which positively indicates the return is incorrect, and

b. It evidences an intention to delay, impede or negate the revenue laws of this State or purports to adopt a position that is lacking in seriousness."

Section 3. G.S. 105-113.106(4c) is recodified as G.S. 105-113.106(4d).

Section 4. G.S. 105-113.106 is amended by adding the following two new subdivisions to read:

"The following definitions apply in this Article:

. . .

(4c) Local law enforcement agency. -- A municipal police department, a county police department, or a sheriff's office.

. . .

(8a) State law enforcement agency. -- Any State agency, force, department, or unit responsible for enforcing criminal laws."

Section 5. G.S. 105-113.108 reads as rewritten:

"§ *105-113.108. Reports; revenue stamps.*

(a) Revenue Stamps. -- The Secretary shall issue stamps to affix to unauthorized substances to indicate payment of the tax required by this Article. Dealers shall report the taxes payable under this Article at the time and on the form prescribed by the Secretary. Dealers are not required to give their name, address, social security number, or other identifying information on the form. Upon payment of the tax, the Secretary shall issue stamps in an amount equal to the amount of the tax paid. Taxes may be paid and stamps may be issued either by mail or in person.

(b) Reports. -- Every local law enforcement agency and every State law enforcement agency must report to the Department within 48 hours after seizing an unauthorized substance, or making an arrest of an individual in possession of an unauthorized substance, listed in this subsection upon which a stamp has not been affixed. The report must be in the form prescribed by the Secretary and it must include the time and place of the arrest or seizure, the amount, location, and kind of substance, the identification of an individual in possession of the substance and that individual's social security number, and any other information prescribed by the Secretary. The report must be made when the arrest or seizure involves any of the following unauthorized substances upon which a stamp has not been affixed as required by this Article:

(1) More than 42.5 grams of marijuana.
(2) Seven or more grams of any other controlled substance that is sold by weight.
(3) Ten or more dosage units of any other controlled substance that is not sold by weight.
(4) Any illicit mixed beverage.
(5) Any illicit spirituous liquor.
(6) Mash."

Section 6. G.S. 114-18.1 is repealed.

Section 7. G.S. 114-19(b) is repealed.

Section 8. Section 2 of this act becomes effective October 1, 2000, and applies to returns filed on or after that date. Sections 3 through 7 of this act become effective December 1, 2000, and apply to arrests or seizures occurring on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law upon approval of the Governor at 8:40 a.m. on the 14th day of July, 2000.

H.B. 1624 **SESSION LAW 2000-120**

AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE NATIONAL GOVERNORS' ASSOCIATION FOR A STREAMLINED SALES TAX COLLECTION SYSTEM AND TO OTHERWISE IMPROVE COLLECTION.

The General Assembly of North Carolina enacts:

Section 1. Article 5 of Chapter 105 of the General Statute is amended by adding a new section to read:

"*§ 105-164.27. Direct pay certificate.*

(a) Requirements. -- A person who purchases tangible personal property whose tax status cannot be determined at the time of the purchase because of one of the reasons listed below may apply to the Secretary for a direct pay certificate:

(1) The place of business where the property will be used is not known at the time of the purchase and a different tax consequence applies depending on where the property is used.

(2) The manner in which the property will be used is not known at the time of the purchase and one or more of the potential uses is taxable but others are not taxable.

(b) Procedure. -- An application for a direct pay certificate must be made on a form provided by the Secretary and contain the information required by the Secretary. The Secretary may grant the application if the Secretary finds that the applicant complies with the sales and use tax laws and that the applicant's compliance burden will be greatly reduced by use of the certificate.

(c) Effect. -- A direct pay certificate authorizes its holder to purchase any tangible personal property without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the certificate holder. A person who purchases tangible personal property under a direct pay certificate is liable for use tax due on the purchase. The tax is payable when the property is placed in use. A direct pay certificate does not apply to taxes imposed under G.S. 105-164.4(a)(1f) or G.S. 105-164.4(a)(4a).

(d) Revocation. -- A direct pay certificate is valid until the holder returns it to the Secretary or it is revoked by the Secretary. The Secretary may revoke a direct pay certificate if the holder of the certificate does not file a sales and use tax return on time, does not pay sales and use on time, or otherwise fails to comply with the sales and use tax laws."

Section 2. Article 5 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

"*§ 105-164.43A. Certification of tax collector software and tax collector.*

(a) Software. -- The Secretary may certify a software program as a certified sales tax collection program if the Secretary determines that the program correctly determines all of the following and that the software can generate reports and returns required by the Secretary:

(1) The applicable combined State and local sales and use tax rate for a sale, based on a ship-to address.

(2) Whether or not an item is exempt from tax, based on a uniform product code or another method.

(3) Whether or not an exemption certificate offered by a purchaser is a valid certificate, based on the Department's registry of holders of exemption certificates.

(4) The amount of tax to be remitted for each taxpayer for a reporting period.

(5) Any other issue necessary for the application or calculation of sales and use tax due.

(b) Tax Collector. -- The Secretary may certify an entity as a Certified Sales Tax Collector if the entity meets all of the following requirements:

(1) The entity uses a certified sales tax collection program.
(2) The entity has agreed to update its program upon notification by the Secretary.
(3) The entity integrates its certified sales tax collection program with the system of a retailer for whom the entity collects tax so that the tax due on a sale is determined at the time of the sale.
(4) The entity remits the taxes it collects at the time and in the manner specified by the Secretary.
(5) The entity agrees to file sales and use tax returns on behalf of the retailers for whom it collects tax.
(6) The entity enters into a contract with the Secretary and agrees to comply with all the conditions of the contract.

"*§ 105-164.43B. Contract with Certified Sales Tax Collector.*

The Secretary may contract with a Certified Sales Tax Collector for the collection and remittance of sales and use taxes. A Certified Sales Tax Collector must file with the Secretary a bond or an irrevocable letter of credit in the amount set by the Secretary. A bond must be conditioned upon compliance with the contract, be payable to the State, and be in the form required by the Secretary. The amount a Certified Sales Tax Collector charges under the contract is a cost of collecting the tax and is payable from the amount collected.

"*§ 105-164.43C. Effect of contract.*

(a) Retailer. -- A retailer may contract with a Certified Sales Tax Collector to collect and remit sales and use taxes payable to the State on sales made by the retailer. In the absence of fraud, a retailer who contracts with a Certified Sales Tax Collector is not subject to audit by the State on the transactions it processes using the Collector's certified sales tax collection program. A retailer is subject to audit for transactions not processed by the Certified Sales Tax Collector.

The Department may review a retailer's procedures to determine if the certified sales tax collection program is functioning properly. A retailer who contracts with a Certified Sales Tax Collector is not liable for taxes due on sales processed using the program unless the retailer misrepresented the product it sells. A contract with a Certified Sales Tax Collector is not a factor in determining whether a person has nexus with this State for payment of any tax.

(b) Collector. -- A Certified Sales Tax Collector is the agent of a seller who contracts with the Certified Sales Tax Collector for collection and remittance of sales and use taxes payable to this State. As the seller's agent, the Certified Sales Tax Collector is liable for sales tax due on all sales transactions processed by the Certified Sales Tax Collector unless the seller misrepresented the type of property sold."

Section 3. G.S. 105-88(d) reads as rewritten:

"(d) A loan made by a person who does not comply with this section is not collectible at law ~~in the courts of this State in any case where the person making the loan has failed to pay the tax levied in~~

~~this section or otherwise failed to comply with the provisions of this section.~~ under G.S. 105-269.13."

Section 4. G.S. 105-164.6A(b)(1) reads as rewritten:

"(b) Mandatory Provisions. -- The agreements must contain the following provisions:

(1) ~~The customer may elect to pay the use tax directly to the Secretary in accordance with law rather than to the seller.~~ The seller is not liable for use tax not paid to it by a customer."

Section 5. G.S. 105-164.13(14a) is recodified as G.S. 105-164.13(33a) and reads as rewritten:

"(33a) ~~Printed material which is sold by a printer~~ Tangible personal property sold by a retailer to a purchaser within or without this State, when ~~such printed material~~ the property is delivered in this State to a common carrier or to the United States Postal Service for delivery to the purchaser or the purchaser's designees outside this ~~State, if~~ State and the purchaser does not ~~thereafter~~ subsequently use the ~~printed material~~ property in this State."

Section 6. G.S. 105-164.28 reads as rewritten:

"§ *105-164.28. Certificate of resale.*

(a) Seller's Responsibility. -- A seller who accepts a certificate of resale from a purchaser of tangible personal property has the burden of proving that the sale was not a retail sale unless all of the following conditions are met:

(1) ~~The seller acted in good faith in accepting the certificate of resale.~~ For a sale made in person, the certificate is signed by the purchaser, states the purchaser's name, address, and registration number, and describes the type of tangible personal property generally sold by the purchaser in the regular course of business.

(2) ~~The certificate is in the form required by the Secretary.~~ For a sale made in person, the purchaser is engaged in the business of selling tangible personal property of the type sold.

(3) ~~The certificate is signed by the purchaser, states the purchaser's name, address, and registration number, and describes the type of tangible personal property generally sold by the purchaser in the regular course of business.~~ For a sale made over the Internet or by other remote means, the sales tax registration number given by the purchaser matches the number on the Department's registry.

~~(4) The purchaser is licensed under this Article or under the law of another taxing jurisdiction.~~

~~(5) The purchaser is engaged in the business of selling tangible personal property of the type sold.~~

(b) Liabilities. -- A purchaser who does not resell property purchased under a certificate of resale is liable for any tax

subsequently determined to be due on the sale. A seller of property sold under a certificate of resale is jointly liable with the purchaser of the property for any tax subsequently determined to be due on the sale only if the Secretary proves that the sale was a retail sale."

Section 7. G.S. 105-236(5a) reads as rewritten:

"(5a) Misuse of Exemption ~~Certificate of Resale.~~ Certificate. -- For misuse of ~~a certificate of resale~~ an exemption certificate by a purchaser, the Secretary shall assess a penalty equal to two hundred fifty dollars ($250.00). An exemption certificate is a certificate issued by the Secretary that authorizes a retailer to sell tangible personal property to the holder of the certificate and either collect tax at a preferential rate or not collect tax on the sale. Examples of an exemption certificate include a certificate of resale, a direct pay certificate, and a farmer's certificate."

Section 8. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. -- An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

. . .

(25) To provide public access to a database containing the names of retailers who are registered to collect sales and use taxes under Article 5 of this Chapter."

Section 9. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"*§ 105-269.13. Debts not collectible under North Carolina law.*

(a) Debts Not Collectible. -- The following debts are not collectible and are not subject to execution under Article 28 of Chapter 1 of the General Statutes or any other provision of law:

(1) A loan made by a person who does not comply with G.S. 105-88.

(2) A debt owed to a retailer described in subsection (b) of this section as the result of the purchase of tangible personal property.

(b) Retailer. -- A debt owed to a retailer is subject to this section if all of the following applies to the retailer:

(1) The retailer meets one or more of the conditions in G.S. 105-164.8(b).

(2) The retailer is not registered to collect the use tax due under Article 5 of this Chapter on its sales delivered to an address in North Carolina.

(3) The retailer reported gross sales of at least five million dollars ($5,000,000) on its most recent federal income tax return.

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(c) Assignment. -- An assignment to a person of a debt listed in subsection (a) of this section is subject to the collection restrictions imposed by this section."

Section 10. G.S. 105-269.14 is repealed.

Section 11. G.S. 105-164.16(d) reads as rewritten:

"(d) Use Tax on Out-of-State Purchases. -- ~~Use tax payable by~~ Notwithstanding subsection (b), an individual who purchases tangible personal property outside the State for a nonbusiness purpose ~~is due~~ shall file a use tax return on an annual basis. ~~For an individual who is not required to file an individual income tax return under Part 2 of Article 4 of this Chapter, the~~ The annual reporting period ends on the last day of the calendar ~~year and a use tax return is due by the following April 15. For an individual who is required to file an individual income tax return, the annual reporting period ends on the last day of the individual's income tax year, and the use tax must be paid on the income tax return as provided in G.S. 105-269.14.~~ year. The return is due by the due date, including any approved extensions, for filing the individual's income tax return."

Section 12. G.S. 105-466(c) reads as rewritten:

"(c) Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of ~~a calendar month~~ the month of either January or July, as set by the board of county commissioners in the resolution levying the ~~tax, which shall in no case be~~ tax. In no event may the tax be imposed, or the tax rate changed, earlier than the first day of the second succeeding calendar month after the date of the adoption of the resolution. The county must give the Secretary at least 90 days advance notice of a new tax levy or tax rate change."

Section 13. Chapter 1096 of the 1967 Session Laws is amended by adding a new section to read:

"Section 10.3. Mecklenburg County must give the Secretary of Revenue at least 90 days advance notice of any tax rate change under this act. Any tax rate change under this act must become effective on the first day of the month of either January or July, as set by the board of county commissioners in the resolution levying the tax."

Section 14. G.S. 20-7(b1) reads as rewritten:

"(b1) Application. -- To obtain a drivers license from the Division, a person must complete an application form provided by the Division, present at least two forms of identification approved by the Commissioner, be a resident of this State, and demonstrate his or her physical and mental ability to drive safely a motor vehicle included in the class of license for which the person has applied. The Division may copy the identification presented or hold it for a brief period of time to verify its authenticity. To obtain an endorsement, a person must demonstrate his or her physical and mental ability to drive safely the type of motor vehicle for which the endorsement is required.

The application form must request all of the following ~~information:~~ information, and it must contain the disclosures concerning the request for an applicant's social security number required by section 7 of the federal Privacy Act of 1974, Pub. L. No. 93-579:

(1) The applicant's full name.
(2) The applicant's mailing address and residence address.
(3) A physical description of the applicant, including the applicant's sex, height, eye color, and hair color.
(4) The applicant's date of birth.
(5) The applicant's social security number. The Division shall not issue a license to an applicant who fails to provide the applicant's social security number. ~~The applicant's social security number shall not be printed on the license and may be released only to the Department of Health and Human Services, Child Support Enforcement Program, upon its request and for the purpose of establishing paternity or child support, or enforcing a child support order.~~
(6) The applicant's signature.

~~The application form must also contain the disclosures concerning the request for an applicant's social security number required by section 7 of the federal Privacy Act of 1974, Pub. L. No. 93-579.~~

(b2) Disclosure of Social Security Number. -- The social security number of an applicant is not a public record. The Division may not disclose an applicant's social security number except as allowed under federal law. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. § 408, and amendments to that law.

In accordance with 42 U.S.C. 405 and 42 U.S.C. 666, and amendments thereto, the Division may disclose a social security number obtained under ~~this subsection~~ subsection (b1) of this section only as follows:

(1) ~~for~~ For the purpose of administering the drivers license ~~laws or to~~ laws.
(2) To the Department of Health and Human Services, Child Support Enforcement Program for the purpose of ~~assist the State Child Support Enforcement Program in~~ establishing paternity or ~~establishing~~ child support or enforcing a child support order. ~~and may not disclose the social security number for any other purpose. The social security number of an applicant for a license or of a licensed driver is therefore not a public record. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. 408, and amendments thereto.~~
(3) To the Department of Revenue for the purpose of verifying taxpayer identity."

Section 15. G.S. 20-7(n)(7) reads as rewritten:

"(n) Format. -- A drivers license issued by the Division must be tamperproof and must contain all of the following information:

. . .

(7) ~~The license holder's social security number or another~~ An identifying number for the license holder assigned by the Division. The identifying number may not be the license holder's social security number.

. . . ."

Section 16. Section 5.(a) of Chapter 341 of the 1999 Session Laws reads as rewritten:

"Section 5.(a) The Secretary of Revenue shall contract during the 1999-2001 fiscal biennium for the collection of delinquent tax debts owed by nonresidents and foreign entities. To implement this section, the Secretary may draw funds for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act. For the 2000-2001 fiscal year, the Secretary may retain the costs of implementing this section from the amounts collected pursuant to the contracts authorized by this section. The Secretary of Revenue shall report annually to the Revenue Laws Study Committee on its collections pursuant to this contract during the biennium."

Section 17. Section 6 of Chapter 341 of the 1999 Session Laws reads as rewritten:

"Section 6. The Department of Revenue shall conduct a study to identify and evaluate proposals for more efficient collection of taxes, including using electronic commerce and other technology to increase efficiency. The study shall include an analysis of the most efficient tax collection methods used in other states. The State Controller shall cooperate with the Department of Revenue in this study. The Department shall report the results of its study, including findings, recommendations, and estimated revenue gains of each recommendation, to the Revenue Laws Study Committee by May 1, 2000. To implement this section, the Secretary of Revenue may draw up to fifty thousand dollars ($50,000) for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act. To implement the recommendations of this study, the Secretary may enter into a performance-based contract and may withhold from the revenue collected pursuant to Section 5 of this act the amount needed to obtain assistance in developing a request for proposal for the performance-based contract."

Section 18. Section 7 of this act becomes effective January 1, 2001. Sections 10 and 11 of this act become effective for taxable years beginning on or after January 1, 2003. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

Became law upon approval of the Governor at 8:41 a.m. on the 14th day of July, 2000.

S.B. 927 **SESSION LAW 2000-121**

AN ACT TO AMEND THE GENERAL STATUTES GOVERNING SERVICES FOR THE BLIND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 111-4 reads as rewritten:

"§ *111-4. Register of State's blind.*

(a) ~~It shall be the duty of the~~ The Department of Health and Human Services ~~to~~ shall cause to be maintained a complete register of the blind in the State ~~of North Carolina, which~~ that shall describe the ~~condition,~~ condition and cause of ~~blindness, capacity for education and industrial training~~ blindness of ~~each, with such~~ each and any other facts ~~as~~ that may seem to the Department of Health and Human Services to be of value.

(b) When, upon examination by a physician or optometrist, any person is found to be blind, the examiner shall report the results of the examination to the Department of Health and Human Services within 30 days after the examination is conducted."

Section 2. G.S. 111-5 is repealed.

Section 3. G.S. 111-6 reads as rewritten:

"§ *111-6. Training schools and workshops; training outside State; sale of products; direct relief; matching of federal funds.*

The Department of Health and Human Services may establish one or more training schools and workshops for employment of suitable blind and visually impaired ~~persons~~ persons, ~~and shall be empowered to~~ equip and maintain ~~the same,~~ these schools and workshops, ~~to~~ pay ~~to~~ employees suitable wages, ~~and to~~ devise means for the sale and distribution of the products ~~thereof,~~ of these schools and workshops, and ~~may~~ cooperate with shops already established. The Department of Health and Human Services may also pay for lodging, tuition, support and all necessary expenses for blind and visually impaired persons during their training or ~~instructions~~ instruction in any suitable occupation, whether it be in industrial, commercial, ~~or professional~~ professional, or any other establishments, schools or institutions, or through private instruction ~~wherever~~ when in the judgment of the Department ~~such~~ of Health and Human Services this instruction or training can be ~~obtained, when in its judgment~~ obtained and ~~the training or instruction in question~~ will contribute to the efficiency or self-support of ~~such~~ the blind and visually impaired persons. When special educational opportunities cannot be had within the State, they may be arranged for, at the discretion of the ~~Department,~~ Department of Health and Human Services, outside of the State. The Department of Health and Human Services may ~~also, whenever it thinks proper,~~ also aid individual blind and visually impaired persons or groups of blind and visually impaired persons to become self-supporting by furnishing material or equipment to ~~them, and may also assist~~ them and by assisting them in the sale and distribution of their products. Any portion of the funds appropriated to the Department of Health and Human Services under the provisions of this Chapter providing for the rehabilitation of the blind and visually impaired and the prevention of blindness may, when the Commission for the Blind deems wise, be given in direct money payments to the needy blind in accordance with the provisions of G.S. 111-13 ~~to 111-26, and whenever~~ through G.S. 111-26. Whenever possible such funds may be matched by funds

provided by the federal Social Security ~~Act.~~ Act, 42 U.S.C. § 301, et seq., as amended."

Section 4. G.S. 111-6.1 reads as rewritten:

"§ *111-6.1. Rehabilitation center for the ~~adult blind.~~ blind and visually impaired.*

~~In addition to other powers and duties granted it by law, the~~ The Department of Health and Human Services ~~is hereby authorized and directed to~~ shall establish and operate a rehabilitation center for the blind and visually impaired for the purpose of ~~assisting them in their mental, emotional, physical, and economic adjustments to blindness through the application of proper tests, measurements, and intensive training in order that they may develop manual dexterity, obstacle and direction awareness, acceptable work habits, and maximum skills in industrial and commercial processes.~~ evaluating and providing instruction in specialized independent living, prevocational, and vocational skills to blind and visually impaired persons to prepare them for obtaining and maintaining employment.

The Commission shall make all rules ~~and regulations~~ necessary for this purpose and the Department ~~is hereby authorized to~~ of Health and Human Services may enter into any agreement or contract; to purchase or lease property, both real and personal, to accept grants and gifts of whatever nature, and to do all other things necessary to carry out the intent and purposes of ~~such a~~ this rehabilitation center.

The Department of Health and Human Services ~~is hereby authorized to~~ may receive grants-in-aid from the federal government for carrying out the provisions of this section, as well as for other related rehabilitation programs for ~~the North Carolina blind, under the provisions of the act of Congress known as the Barden-Rehabilitation Act (Volume 57, United States Statutes at Large, Chapter 190). Visually handicapped~~ blind and visually impaired persons under the provisions of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355, 29 U.S.C. § 701, et seq., as amended. Blind and visually impaired persons as defined in G.S. 111-11, who are physically present in North Carolina may enjoy the benefits of this section or any other related rehabilitation benefits under the ~~Barden-Rehabilitation Act.~~ Rehabilitation Act of 1973, as amended."

Section 5. G.S. 111-7 reads as rewritten:

"§ *111-7. ~~Promotion visits.~~ In-home services.*

The Department of Health and Human Services may ~~ameliorate the condition of the blind by promotion visits among them and teaching them in their homes as the Department of Health and Human Services may deem advisable.~~ foster maximum independence of blind and visually impaired persons through the provision of in-home independent living, development of community-based support groups, and related services as it deems advisable."

Section 6. G.S. 111-8 reads as rewritten:

"§ *111-8. Investigations; eye examination and treatment.*

~~It shall be the duty of this [the]~~ The Department of Health and Human Services ~~to~~ shall continue to make inquiries concerning the

cause of blindness, to learn what proportion of these cases are ~~preventable~~ preventable, and to inaugurate and cooperate in any ~~such~~ measure for the State ~~of North Carolina as may seem wise.~~ it deems advisable. The Department of Health and Human Services may arrange for the examination of the eyes of ~~the individual~~ blind and ~~partially blind~~ visually impaired persons and may secure and pay for medical and surgical treatment for ~~such~~ these persons whenever in the judgment of a qualified ophthalmologist or optometrist the eyes of ~~such~~ this person may be benefited ~~thereby.~~ by the treatment."

Section 7. G.S. 111-8.1 is repealed.

Section 8. G.S. 111-11 reads as rewritten:

"§ *111-11. ~~Definition of visually handicapped person.~~ Definitions.*

For ~~purpose of this Chapter, visually handicapped persons are those persons who are totally blind or~~ the purposes of this Chapter, the following definitions apply:

(1) 'Blind person' means a person who meets any of the following criteria:
   a. Is totally blind.
   b. Has central visual acuity that does not exceed 20/200 in the better eye with correcting lenses.
   c. Has a visual field that subtends an angle no greater than 20 degrees at its widest diameter.

(2) 'Visually impaired person' means a person whose vision with glasses is so ~~defective~~ limited as to prevent the performance of ordinary activity for which eyesight is essential."

Section 9. Chapter 111 of the General Statutes is amended by adding a new section to read:

"§ *111-11.1. Jurisdiction of certain Divisions within the Department of Health and Human Services.*

For the purpose of providing rehabilitative services to people who are visually impaired, the Division of Services for the Blind and the Division of Vocational Rehabilitation Services shall develop and enter into an agreement specifying which agency can most appropriately meet the specific needs of this client population. If the Divisions cannot reach an agreement, the Secretary of Health and Human Services shall determine which Division can most appropriately meet the specific needs of this client population."

Section 10. G.S. 111-12.6 reads as rewritten:

"§ *111-12.6. Disposition of funds deposited with or transferred to State Treasurer.*

All funds required under this Article to be deposited with or which have been ~~heretofore~~ transferred to the State Treasurer by the Bureau of Employment of the Department of Health and Human Services, and all future net earnings and accumulations of ~~said~~ the Bureau or its successor, other than the one hundred thousand dollars ($100,000) reserve fund ~~herein provided for,~~ provided for in G.S. 111-12.5, from whatever source ~~or sources~~ shall be periodically, but not less frequently than annually, paid over to and retained by the State

Treasurer as a separate fund or account. The funds deposited with the State Treasurer shall be invested and the income from the corpus shall inure to the sole benefit of the Department of Health and Human Services. The income and corpus shall be expended for services to and for the benefit of ~~visually handicapped~~ blind and visually impaired persons in North Carolina upon recommendation of the Commission for the Blind, by and with the approval of the Governor as the Director of the Budget."

Section 11. The catch line to Article 2 of Chapter 111 of the General Statutes reads as rewritten:

"ARTICLE 2.

Aid to the ~~Needy~~ Blind."

Section 12. G.S. 111-14 reads as rewritten:

"§ *111-14. Application for benefits under Article; investigation and award by county commissioners.*

Any person claiming ~~benefit~~ benefits under this ~~Article,~~ Article shall file with the commissioners of the county in which he or she is residing an application in writing, in duplicate, upon forms prescribed by the Department of Health and Human ~~Services, which~~ Services. This application shall be accompanied by a certificate signed by a reputable physician licensed to practice medicine in the State ~~of North Carolina and~~ who is actively engaged in the treatment of diseases of the human ~~eye,~~ eye or by an optometrist, whichever the individual may select, ~~to the effect~~ stating that the applicant is ~~blind or that his or her vision with glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential.~~ blind. ~~Such~~ This application may be made on the behalf of any ~~such~~ blind person by the Department of Health and Human ~~Services,~~ Services or by any other person. The board of county commissioners shall cause an investigation to be made by a qualified ~~person, or persons,~~ person designated as ~~their agents~~ its agent for this purpose and shall pass upon the ~~said~~ application without delay, determine the eligibility of the applicant, and allow or disallow the relief sought. In passing upon the application, ~~they~~ the board of county commissioners may take into consideration the facts set forth in the ~~said application,~~ application and any other facts that are deemed necessary, and may at any ~~time, within their discretion,~~ time require an additional examination of the applicant's eyes by an ophthalmologist designated by the Department of Health and Human Services. When satisfied with the merits of the application, the board of county commissioners shall allow the ~~same~~ application and grant to the applicant ~~such~~ any proper relief ~~as may be suitable and proper,~~ according to the rules ~~and standards~~ established by the Commission for the ~~Blind, not inconsistent with this Article and in accordance with the further provisions hereof.~~ Blind."

Section 13. G.S. 111-15(1) is repealed.

Section 14. G.S. 111-16 reads as rewritten:

"§ *111-16. Application for aid; notice of award; review.*

Promptly after an application for aid is made to the board of county commissioners under this ~~Article~~ Article, the Department of Health

and Human Services shall be notified ~~thereof~~ of the application by ~~mail,~~ mail by ~~said~~ the county ~~commissioners, and one~~ commissioners. One of the duplicate applications for aid made before the board of county commissioners shall be transmitted with ~~said~~ this notice.

As soon as any award has been made or any application declined by the board of county commissioners, ~~or any application declined,~~ prompt notice ~~thereof in writing~~ in writing of the award or the declined application shall be forwarded by mail to the Department of Health and Human Services and to the ~~applicant, in which shall be fully stated~~ applicant. This notice shall fully state the particulars of the award or the facts of denial. An applicant may appeal an award or denial pursuant to Article 3 of Chapter 150B of the General Statutes.

~~Within a reasonable time, in accordance with rules and regulations adopted by the Commission for the Blind, after action by the board of county commissioners, the applicant, if dissatisfied therewith, may appeal directly to the Commission for the Blind. Notice of such appeal must be given in writing to the board of county commissioners, and within 30 days after the receipt of such notice the board of county commissioners shall transmit to the Department of Health and Human Services copies of all proceedings and documents, including the award or denial, which may be necessary for the hearing of the said appeal, together with the grounds upon which the action was based.~~

~~As soon as may be practicable after the receipt of the said notice of appeal, the Commission for the Blind shall notify the applicant of the time and place where the hearing of such appeal will be had. The members of the Commission for the Blind shall hear the said appeal under such rules and regulations not inconsistent with this Article as it may establish, and shall provide for granting an individual whose claim for aid is denied an opportunity for fair hearing before said Commission for the Blind, and their decision shall be final. Any notice required to be given herein may be given by mail or by personally delivering in writing such notice to the clerk of the board of county commissioners or the executive director of the Department of Health and Human Services, except that notice of the time and place where the hearings of such appeals will be had shall be given by mail or by personal delivery of such notice in writing direct to the applicant.~~

~~In all cases where an appeal shall have been taken by the applicant, the Commission for the Blind shall carefully examine such award or decision, as the case may be, and shall in their discretion, approve, increase, allow or disallow any award so made. Immediately thereafter they shall notify the board of county commissioners and the applicant of such action; and if the award made by the board of county commissioners is changed, notice thereof shall be given by mail to the applicant and the board of county commissioners, giving the extent and manner in which any award has been changed.~~

~~If, in the absence of any appeal by the applicant, the North Carolina Department of Health and Human Services shall make any determination increasing or decreasing the award allowing or~~

~~disallowing the same, not inconsistent with the rules and regulations promulgated by the Commission for the Blind, the applicant or board of county commissioners shall have the right, within 10 days from notice thereof, to have such order reviewed by the Commission for the Blind. The procedure in such cases shall be as provided in the section on appeals to the Commission by the applicant.~~"

Section 15. G.S. 111-18.1(b) reads as rewritten:

"(b) In the event of the death of a recipient of a cash payment ~~service, as defined by regulation of the N. C. Commission for the Blind, which~~ service that was rendered as ~~a~~ part of a program of public assistance for the blind or visually ~~handicapped,~~ impaired, any check ~~or checks~~ issued for the payment of ~~such~~ that service made payable to ~~such~~ that recipient, but not endorsed prior to ~~his~~ the recipient's death, shall be returned to the issuing agency and made void. The issuing agency shall then issue a check payable to the provider of ~~such~~ the service for the sum remaining due for this service, not to exceed the amount of ~~said~~ the returned and voided ~~check or checks.~~ check."

Section 16. G.S. 111-27 reads as rewritten:

"*§ 111-27. Department of Health and Human Services to promote employment of ~~needy~~ blind persons; vending stands on public property.*

For the purpose of assisting blind persons to become self-supporting, the Department of Health and Human Services ~~is hereby authorized to~~ may carry on activities to promote the employment of ~~needy~~ blind persons, including the licensing and establishment of ~~such~~ blind persons as operators of vending stands in public buildings. The ~~said~~ Department of Health and Human Services may cooperate with the federal government in the furtherance of the ~~provisions of the act of Congress known as the Randolph-Sheppard Bill (H.R. 4688)~~ Randolph-Sheppard Vending Stand Act, 20 U.S.C. § 107-107f, as amended, providing for the licensing of blind persons to operate vending stands in federal buildings, or any other ~~acts~~ act of Congress ~~which~~ that may be ~~hereafter~~ enacted.

The board of county commissioners of each county and the commissioners or officials in charge of various State and municipal buildings ~~are hereby authorized and empowered to~~ may permit the operation of vending stands by ~~needy~~ blind persons on the premises of any State, county or municipal property under their respective ~~jurisdictions: Provided, that such~~ jurisdictions. These operators shall be first licensed by the Department of Health and Human ~~Services: Provided further, that~~ Services. Additionally, no vending stands may be operated unless, in the opinion of the commissions or officials having control and custody of ~~such~~ the property, ~~such~~ the vending stands may be properly and satisfactorily operated on ~~such~~ the premises without undue interference with the use and needs ~~thereof~~ of the premises or property for public purposes."

Section 17. G.S. 111-27.1 reads as rewritten:

"*§ 111-27.1. Department of Health and Human Services authorized to conduct certain business operations.*

For the purpose of assisting blind and visually impaired persons to become self-supporting the Department of Health and Human Services ~~is hereby authorized to~~ may carry on activities to promote the rehabilitation and employment of the ~~blind,~~ blind and visually impaired, including employment in or the operation of various business enterprises suitable for the blind ~~to be employed in or to operate.~~ and visually impaired. The Executive Budget Act ~~shall apply~~ applies to the operation of ~~such~~ these enterprises as to all appropriations made by the State to aid in the organization and the establishment of ~~such~~ these businesses. Purchases and sales of merchandise or equipment, the payment of rents and wages to blind and visually impaired persons operating ~~such~~ these businesses, and other expenses ~~thereof,~~ of these businesses from funds derived from local subscriptions and from the day-by-day operations ~~shall not be~~ are not subject to the provisions of law regulating purchases and contracts, or to the deposit and disbursement ~~thereof applicable~~ that apply to State funds but shall be supervised by the Department of Health and Human Services. All of the business operations under this ~~law, however, shall be~~ law are subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

~~After September 30, 1983,~~ Randolph-Sheppard vendors ~~will no longer be~~ are not State employees. Blind licensees operating vending facilities under contract with the ~~North Carolina~~ Department of Health and Human Services, Division of Services for the Blind, are independent contractors."

Section 18. G.S. 111-28 reads as rewritten:

"§ *111-28. Department of Health and Human Services authorized to receive ~~federal, etc.,~~ grants for benefit of ~~needy blind;~~ blind and visually impaired; use of information concerning blind persons.*

The Department of Health and Human Services ~~is hereby authorized and empowered to~~ may receive grants-in-aid from the federal government or any State or federal agency for the purpose of rendering other services to the ~~needy blind~~ blind, visually impaired, and those in danger of becoming ~~blind; and all such~~ blind. All of these grants ~~so made and received~~ shall be paid into the State treasury and credited to the account of the Department of Health and Human Services, to be used in carrying out the provisions of this law.

The Commission for the Blind ~~is hereby further authorized and empowered to make such~~ may adopt rules ~~and regulations~~ as may be required by the federal government or State or federal agency as a condition for receiving ~~such~~ these federal funds, not inconsistent with the laws of this State.

~~Whenever the words "Social Security Board" appear in G.S. 111-6, 111-13 to 111-26 the same shall be interpreted to include any agency of the federal government which may be substituted therefor by law.~~

The Department of Health and Human Services ~~is hereby authorized and empowered to~~ may enter into reciprocal agreements with public welfare agencies in other states ~~relative to the provision of~~ regarding assistance and services to residents, nonresidents, or

transients, and cooperate with other agencies of the State and federal governments in the provisions of ~~such~~ assistance and services and in the study of the problems involved.

The Department of Health and Human Services ~~is hereby authorized and empowered to~~ may establish and enforce reasonable rules ~~and regulations~~ governing the custody, use and preservation of the records, papers, files, and communications of the Department.

It ~~shall be~~ is unlawful, except for purposes directly connected with the administration of aid to the ~~needy~~ blind and visually impaired and in accordance with the rules ~~and regulations~~ of the Department of Health and Human Services, for any person ~~or persons~~ to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of, any list of or name of, or any information concerning, persons applying for or receiving aid to the ~~needy blind,~~ blind and visually impaired, directly or indirectly derived from the records, papers, files, or communications of the Department of Health and Human ~~Services or~~ Services, the board of county ~~commissioners~~ commissioners, or the county social services department, or acquired in the course of the performance of official duties.

~~Notwithstanding the above, the~~ The Department of Health and Human Services ~~is authorized to~~ may release to the ~~North Carolina Department~~ Division of Motor Vehicles in the Department of Transportation and to the North Carolina Department of Revenue the name and medical records of any person listed in the register of the blind in this State maintained under the provisions of G.S. 111-4. All information and documents released to the ~~Department~~ Division of Motor Vehicles and the Department of Revenue shall be treated by ~~those departments~~ them as confidential for their use only and shall not be released by them to any person for commercial or political purposes or for any purpose not directly connected with the administration of Chapters 20 and 105 of the General ~~Statutes of this State.~~ Statutes. The Department of Health and Human Services may also release to the North Carolina Library for the Blind and Physically Handicapped of the Department of Cultural Resources, the name and address of any person listed in the register of the blind in this State maintained under the provisions of G.S. 111-4. All information released to the North Carolina Library for the Blind and Physically Handicapped shall be treated as confidential for its use only and shall not be released to any person for commercial or political purposes or for any purpose not directly connected with providing information concerning services offered by the North Carolina Library for the Blind and Physically Handicapped."

Section 19. G.S. 111-28.1 reads as rewritten:

"*§ 111-28.1. Department of Health and Human Services authorized to cooperate with federal government in rehabilitation of ~~blind.~~ blind and visually impaired.*

The Department of Health and Human Services ~~is hereby authorized and empowered to make~~ may adopt the necessary rules ~~and~~

~~regulations~~ to cooperate with the federal government in the furtherance of the ~~provisions of the act of Congress known as the Barden-Rehabilitation Act (Volume 57, United States Statutes at Large, Chapter 190)~~ Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355, 29 U.S.C. § 701, et seq., as amended, providing for the rehabilitation of the ~~blind.~~ blind and visually impaired."

Section 20. G.S. 111-41 reads as rewritten:

"§ *111-41. Preference to ~~visually handicapped~~ blind persons in operation of vending facilities; responsibility of Department of Health and Human Services.*

In order to promote the employment and the self-sufficiency of ~~visually handicapped~~ blind persons in North Carolina, State agencies shall upon the request of the Department of Health and Human Services give preference to ~~visually handicapped~~ blind persons in the operation of vending facilities on State property. The Department of Health and Human Services shall encourage and assist the operation of vending facilities by ~~visually handicapped~~ blind persons."

Section 21. G.S. 111-42(e) is repealed.

Section 22. G.S. 111-43 reads as rewritten:

"§ *111-43. Installation of coin-operated vending machines.*

In locations where the Department of Health and Human Services determines that a vending facility may not be operated or should not continue to operate due to insufficient revenues to support a blind vendor or due to the lack of qualified blind applicants, the Department shall have the first opportunity to secure, by negotiation of a contract with one or more licensed commercial vendors, coin-operated vending machines for the location. Profits from coin-operated vending machines secured by the Department of Health and Human Services shall be used by the Department for the support of programs that enable blind and visually impaired people to live more independently, including medical, rehabilitation, independent living, and educational services offered by the Division of Services for the Blind."

Section 23. G.S. 111-44 reads as rewritten:

"§ *111-44. Location and services provided by State agency.*

If the Department of Health and Human Services ~~shall determine~~ determines that a location is suitable for the operation of a vending facility by a ~~visually handicapped~~ blind person, the State agency with authority over the location shall provide proper space, plumbing, lighting, and electrical outlets for the vending facility in the original planning and construction, or in the alteration and renovation of the present location. The State agency shall provide necessary utilities, janitorial ~~services~~ service, and garbage disposal for the operation of the vending facility. Space and services for the vending facilities ~~and service therefor~~ shall be provided without charge."

Section 24. G.S. 111-45 reads as rewritten:

"§ *111-45. Duty of State agency to inform ~~Department.~~ the Department of Health and Human Services.*

It shall be the duty of the State agencies to inform the Department of Health and Human Services of existing and prospective locations for

vending facilities and coin-operated vending machines and to ~~prescribe regulations (upon~~ adopt rules, upon request of the ~~Department)~~ Department, to promote the successful operation of the vending facilities of the ~~visually handicapped.~~ blind."

Section 25. G.S. 111-46 reads as rewritten:

"§ *111-46. Vending facilities operated by those other than ~~visually handicapped~~ blind persons.*

Where vending facilities on State property are operated by those other than ~~the visually handicapped~~ blind persons on the date of enactment of this Article, the contract of these vending facilities shall not be renewed or extended unless the Secretary of the Department of Health and Human Services is notified ~~thereof~~ of the proposed renewal or extension and ~~he~~ the Secretary determines within 30 days of ~~such~~ this notification that the vending facilities are not, or cannot become, suited for operation by the ~~visually handicapped.~~ blind. ~~However, if~~ If the Secretary of the Department of Health and Human Services within 30 days of the date of ~~such~~ this notification fails to provide for the operation of the vending facilities by the ~~visually handicapped,~~ blind, the existing contract may be renewed or extended."

Section 26. G.S. 111-49(b) reads as rewritten:

"(b) 'Blind vendor' means a blind ~~person, as specified in G.S. 105-249(b),~~ person who has been licensed by the Division of Services for the Blind to operate a vending stand in a public building."

Section 27. G.S. 111-50 reads as rewritten:

"§ *111-50. Operations of highway vending.*

(a) In locations on North Carolina highways where the Department of Health and Human Services determines that automatic vending is suitable, the Department shall authorize the Division of Services for the Blind to contract with blind vendors in the operation of highway vending facilities. The contracts shall be reviewed and renegotiated by the Division every two years and shall be reviewed by the Transfer and Promotion Committee. The Commission for the Blind shall adopt rules necessary to govern the operations. The highway vending program shall be a part of the Business Enterprises Program operated under the Randolph-Sheppard Act, 20 U.S.C. § 107a.

~~(b) Profits returned to the Division shall be based upon operator net income and determined as follows:~~

~~(1) The Division shall charge seventeen percent (17%) set-aside on operator net income up to two and one-half times the average operator income for the previous State fiscal year.~~

~~(2) The Division shall charge fifty percent (50%) set-aside on operator net income between two and one-half and three and one-half times the average operator income for the previous State fiscal year.~~

~~(3) The Division shall charge sixty-five percent (65%) set-aside on all operator net income over three and one-half times the average operator income for the previous State fiscal year.~~

(c) The Commission for the Blind may adopt rules to establish applicable set-aside rates for the Business Enterprises Program. The

Commission shall only develop rules authorized by this subsection with the active participation of the Elected Committee of Vendors."

Section 28. G.S. 135-16.1 reads as rewritten:

"*§ 135-16.1. Blind or visually ~~handicapped~~ impaired employees.*

(a) On July 1, 1971, all blind or visually ~~handicapped~~ impaired employees employed by the Department of Health and Human Services shall be enrolled as members of the Teachers' and State Employees' Retirement System. All such employees shall be given full credit for all service theretofore as employees of the Department of Health and Human Services. All retired employees drawing or receiving benefits from and under the private retirement plan purportedly created on December 6, 1966, by the Bureau of Employment for the Blind Division pursuant to a trust agreement purportedly entered into with a private banking institution as trustee shall continue to be paid by the Teachers' and State Employees' Retirement System benefits in the same amount which they purportedly were entitled to under the private retirement plan and trust agreement, except that such retired persons shall be eligible for such annual cost-of-living increases as may be provided for retirement members of the Teachers' and State Employees' Retirement System under the provisions of this Article.

(b) Upon the enrollment of the employees in the Teachers' and State Employees' Retirement System, the purported private retirement plan and trust agreement hereinabove referred to shall be dissolved and terminated.

(c) Notwithstanding the foregoing, blind persons licensed by the State and operating vending facilities under contract with the Department of Health and Human Services, Division of Services for the Blind and its successors, hereinafter referred to as licensed vendors, so licensed on and after October 1, 1983, shall not be members of the Retirement System. All licensed vendors in service or who are members of the Retirement System before October 1, 1983, shall make an irrevocable election to do one of the following:

(1) Continue contributing membership service as if an employee under the same conditions and requirements as are otherwise provided, and have the rights of a member to all benefits and a retirement allowance;

(2) Receive a return of accumulated contributions with cessation of contributing membership service, under G.S. 135-5(f), and in any event with regular interest regardless of membership service; or

(3) Terminate contributing membership service and be entitled alternatively to the benefits and allowances provided under G.S. 135-3(8) or 135-5(a)."

Section 29. G.S. 143B-157(3b) reads as rewritten:

"(3b) The Commission shall advise the Department regarding preparation of applications, the State Plan, ~~the strategic plan,~~ amendments to ~~these plans,~~ this plan, the State needs assessments, and the evaluations required by the federal rehabilitation program; and in partnership with the

Department develop, agree to, and review State goals and priorities;".

Section 30. G.S. 143B-157(3e) reads as rewritten:

"(3e) The Commission shall coordinate with other councils within the State, including the statewide Independent Living Council established under section 705 of the federal Rehabilitation Act, ~~294~~ 29 U.S.C. § 720, et seq., the advisory panel established under section ~~613(a)(12)~~ 612(a)(21) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1413(A)(12), the ~~State Planning~~ Council on Developmental Disabilities described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 6024, ~~and~~ the State Mental Health Planning Council established pursuant to section 1916(e) of the Public Health Service Act, 42 U.S.C. § ~~300x-4(e),~~ 300x-4(e), and the Commission on Workforce Development;".

Section 31. G.S. 143B-158 reads as rewritten:

"*§ 143B-158. Commission for the ~~Blind -- members; selection; quorum; compensation.~~ Blind.*

(a) The Commission for the Blind of the Department of Health and Human Services shall consist of ~~11~~ 13 members ~~appointed by the Governor.~~ as follows:

(1) One representative of the Statewide Independent Living Council.

(2) One representative of a parent training and information center established pursuant to section 631(c) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1431(c).

(3) One representative of the State's Client Assistance Program.

(4) One vocational rehabilitation counselor who has knowledge of and experience in vocational rehabilitation services for the blind. A vocational rehabilitation counselor appointed pursuant to this subdivision shall serve as a nonvoting member of the Commission if the counselor is an employee of the Department of Health and Human Services.

(5) One representative of community rehabilitation program services providers.

(6) One current or former applicant for, or recipient of, vocational rehabilitation services.

(7) One representative of a disability advocacy group representing individuals who are blind.

(8) One parent, family member, guardian, advocate, or authorized representative of an individual who is blind, has multiple disabilities, and either has difficulty representing himself or herself or who is unable, due to disabilities, to represent himself or herself.

(9) One representative of business, industry, and labor.

(10) One representative of the directors of projects carried out under section 121 of the Rehabilitation Act of 1973, 29 U.S.C. § 741, as amended, if there are any of these projects in the State.

(11) One representative of the Department of Public Instruction.

(12) One representative of the Commission on Workforce Development.

(13) The Director of the Division of Services for the Blind shall serve as an ex officio, nonvoting member.

~~No physician, no optometrist, no optician, no oculist, nor any other person who receives services or funds regulated by the Commission shall be qualified to serve on the Commission for the Blind. Any person who is presently a member of the Commission and is disqualified by reason of the preceding sentence shall be deemed to have resigned his position on the Commission. The Governor shall appoint a successor for the balance of the unexpired term. At all times at least six members of the Commission shall be persons who are visually handicapped to the minimum extent of being legally blind. The members of the Commission shall be appointed for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.~~

(b) The members of the Commission for the Blind shall be appointed by the Governor. The Governor shall appoint members after soliciting recommendations from representatives of organizations representing a broad range of individuals who have disabilities and organizations interested in those individuals. In making appointments to the Commission, the Governor shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Commission.

(c) A majority of Commission members shall be persons who are blind, as defined in G.S. 111-11. A majority of Commission members shall be persons who are not employed by the Division of Services for the Blind.

(d) The Commission for the Blind shall select a Chairperson from among its members.

(e) The term of office of members of the Commission is three years. The term of members appointed under subdivisions (1), (2), (3), and (4) of subsection (a) of this section shall expire on June 30 of years evenly divisible by three. The term of members appointed under subdivisions (5), (6), (7), and (8) of subsection (a) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three. The term of members appointed under subdivisions (9), (10), (11), and (12) of subsection (a) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three.

(f) No individual may be appointed to more than two consecutive three-year terms. Upon the expiration of a term, a member shall

continue to serve until a successor is appointed, as provided by G.S. 128-7. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(g) A member of the Commission shall not vote on any issue before the Commission that would have a significant and predictable effect on the member's financial interest. The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(h) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(i) A majority of the Commission shall constitute a quorum for the transaction of business.

(j) All clerical and other services required by the Commission shall be supplied by the Secretary of Health and Human Services."

Section 32. G.S. 143B-163 reads as rewritten:

"§ *143B-163. Consumer and Advocacy Advisory Committee for the Blind -- creation, powers and duties.*

(a) There is hereby created the Consumer and Advocacy Advisory Committee for the Blind of the Department of Health and Human Services. This Committee shall make a continuing study of the entire range of problems and needs of the blind and visually impaired population of this State and make specific recommendations to the Secretary of Health and Human Services as to how these may be solved or alleviated through legislative action. The Committee shall examine national trends and programs of other states, as well as programs and priorities in North Carolina. Because of the cost of treating persons who lose their vision, the Committee's role shall also include studying and making recommendations to the Secretary of Health and Human Services concerning methods of preventing blindness and restoring vision.

(b) The Consumer and Advocacy Advisory Committee for the Blind shall advise all State boards, commissions, agencies, divisions, departments, schools, corporations, or other State-administered associations or entities, including the secretary, director and members of said boards, commissions, agencies, divisions, departments, schools, et cetera, on the needs of the citizens of the State of North Carolina who are now or will become visually ~~handicapped or~~ impaired.

(c) The Consumer and Advocacy Advisory Committee for the Blind shall also advise every State board, commission, agency, division, department, school, corporation, or other State-administered associations or entity concerning sight conservation programs that it supervises, administers or controls.

(d) All State boards, commissions, agencies, divisions, departments, schools, corporations, or other State-administered associations or entities including the secretary, director and members

of said State boards, agencies, departments, et cetera, which supervise, administer or control any program for or affecting the citizens of the State of North Carolina who are now or will become visually ~~handicapped or~~ impaired shall inform the Consumer and Advocacy Advisory Committee for the Blind of any proposed change in policy, program, budget, rule, or regulation which will affect the citizens of North Carolina who are now or will become visually ~~handicapped or~~ impaired. Said board, commission, et cetera, shall allow the Consumer and Advocacy Advisory Committee for the Blind, prior to passage, unless such change is made pursuant to G.S. 150B-21.1, an opportunity to object to the change and present information and proposals on behalf of the citizens of North Carolina who are now or will become visually ~~handicapped or~~ impaired. This subsection shall also apply to all sight conservation programs of the State of North Carolina.

(e) Nothing in this statute shall prohibit a board, commission, agency, division, department, et cetera, from implementing any change after allowing the Consumer and Advocacy Advisory Committee for the Blind an opportunity to object and propose alternatives. Shifts in budget items within a program or administrative changes in a program required in the day-to-day operation of an agency, department, or school, et cetera, shall be allowed without prior consultation with said Committee."

Section 33. G.S. 168-1 reads as rewritten:

"§ *168-1. Purpose and definition.*

The State shall encourage and enable handicapped persons to participate fully in the social and economic life of the State and to engage in remunerative employment. The definition of "handicapped persons" shall include those individuals with physical, mental and visual disabilities. For the purposes of this Article the definition of 'visually ~~handicapped~~ impaired' in G.S. 111-11 shall apply."

Section 34. G.S. 168-5 reads as rewritten:

"§ *168-5. Traffic and other rights of persons using certain canes.*

The driver of a vehicle approaching a visually ~~handicapped~~ impaired pedestrian who is carrying a cane predominantly white or silver in color (with or without a red tip) or using a guide dog shall take all necessary precautions to avoid injury to such pedestrian."

Section 35. The Commission for the Blind shall not exercise the authority granted under G.S. 111-50(c), as enacted by Section 27 of this act, until after such time as the Rehabilitation Services Administration of the United States Department of Education has designated the Commission as part of the State Licensing Agency for the Business Enterprises Program. Until such time as the Commission for the Blind adopts permanent rules to establish set-aside rates for the Business Enterprise Program pursuant to G.S. 111-50(c), as enacted by Section 27 of this act, profits returned to the Division of Services for the Blind shall be based upon operator net income and determined as follows:

(1) The Division shall charge seventeen percent (17%) set-aside on operator net income up to two and one-half times the average operator income for the previous State fiscal year.
(2) The Division shall charge fifty percent (50%) set-aside on operator net income over two and one-half times the average operator income for the previous State fiscal year.

Section 36. In order to establish a schedule of staggered terms of three years for the Commission for the Blind and to provide for an orderly transition in membership of the Commission as specified in G.S. 143B-158, as amended by Section 31 of this act, the following provisions apply:

(1) Mary L. O'Daniel shall serve in the position established by G.S. 143B-158(a)(1) through June 30, 2001.
(2) J. Oattley Lee shall serve through June 30, 2001. The individual next appointed shall fill the position established by G.S. 143B-158(a)(2) for a term that shall expire on June 30, 2004.
(3) Paul H. Starling shall serve through June 30, 2004. The individual next appointed shall fill the position established by G.S. 143B-158(a)(3) for a term that shall expire on June 30, 2007.
(4) John T. Miller III shall serve through June 30, 2001. The individual next appointed shall fill the position established by G.S. 143B-158(a)(4) for a term that shall expire on June 30, 2004.
(5) S. Annette Clinard shall serve in the position established by G.S. 143B-158(a)(5) through June 30, 2002.
(6) Allen G. Moore shall serve in the position established by G.S. 143B-158(a)(6) through June 30, 2002.
(7) Catherleen Thomas shall serve in the position established by G.S. 143B-158(a)(7) through June 30, 2002.
(8) Norma F. Krajczar shall serve through June 30, 2004. Notwithstanding G.S. 143B-158(e), the individual next appointed shall fill the position established by G.S. 143B-158(a)(8) for a term of four years that shall expire on June 30, 2008.
(9) George Murphy shall serve in the position established by G.S. 143B-158(a)(9) through June 30, 2001. Notwithstanding G.S. 143B-158(e), the term of the individual next appointed to fill this position shall be for two years and shall expire on June 30, 2003.
(10) Ronald L. Huber shall serve through June 30, 2003. The individual next appointed shall fill the position established by G.S. 143B-158(a)(10) for a term that shall expire on June 30, 2006.
(11) The term of the member of the Commission initially appointed to fill the position established by G.S. 143B-158(a)(11) shall expire on June 30, 2003.

(12) The term of the member of the Commission initially appointed to fill the position established by G.S. 143B-158(a)(12) shall expire on June 30, 2003.

Section 37. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

Became law upon approval of the Governor at 8:43 a.m. on the 14th day of July, 2000.

H.B. 1699 **SESSION LAW 2000-122**

AN ACT TO EQUALIZE RESIDENT AND NONRESIDENT INSURANCE BROKER LICENSE FEES; TO MAKE NORTH CAROLINA INSURANCE PRODUCER LICENSING LAWS COMPLY WITH THE RECIPROCITY REQUIREMENTS IN THE FEDERAL GRAMM-LEACH-BLILEY ACT, PUBLIC LAW 106-102; TO AMEND THE MINIMUM EDUCATION REQUIREMENTS FOR THE DEPARTMENT OF INSURANCE FINANCIAL EXAMINER AND ANALYST APPLICANTS; TO AMEND THE DEFINITION OF "PERSON" IN THE BEACH AND FAIR PLAN LAWS; TO AMEND THE DEFINITION OF "BRANCH OFFICE" IN THE MOTOR CLUB LAWS; TO INCREASE THE BOND AMOUNT FOR MANUFACTURED HOUSING LICENSEES; TO REQUIRE NOTIFICATION TO THE MANUFACTURED HOUSING BOARD FROM MANUFACTURED HOUSING LICENSEES OF CHANGES IN OWNERSHIP CONTROL AND BANKRUPTCIES; AND TO EXPEDITE BUILDING PLAN REVIEWS BY EXEMPTING REVIEWS OF COUNTY AND CITY BUILDINGS COMPRISING FEWER THAN TEN THOUSAND SQUARE FEET.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-33-125(a) reads as rewritten:

"(a) The following table indicates the annual fees that are required for the respective licenses issued, renewed, or cancelled under this Article and Article 21 of this Chapter:

Adjuster	$ 75.00
Adjuster, crop hail only	20.00
Agent appointment cancellation (paid by insurer)	10.00
Agent appointment, individual	20.00
Agent appointment, nonindividual	50.00
Agent appointment, Medicare supplement and long-term care, individual	10.00
Agent appointment, Medicare supplement and long-term care, nonindividual	20.00
Agent, overseas military	20.00
Broker, nonresident	~~100.00~~ 50.00
Broker, resident	50.00

Limited representative	20.00
Limited representative cancellation (paid by insurer)	10.00
Motor vehicle damage appraiser	75.00
Recertification, continuing education	5.00
Surplus lines licensee, corporate	50.00
Surplus lines licensee, individual	50.00

These fees are in lieu of any other license fees. Fees paid by an insurer on behalf of a person who is licensed or appointed to represent the insurer shall be paid to the Commissioner on a quarterly or monthly basis, in the discretion of the Commissioner. The recertification fee in this subsection shall be paid by persons subject to G.S. 58-33-130 at the time they renew their licenses or appointments under G.S. 58-33-130(c)."

Section 2. Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-33-32. Interstate reciprocity in producer licensing.*

(a) The purpose of this section is to make North Carolina insurance producer licensing comply with the reciprocity requirements in the federal Gramm-Leach-Bliley Act, Public Law 106-102. This section does not apply to surplus lines licensees in Article 21 of this Chapter, except as provided in subsections (c) and (d) of this section.

(b) As used in this section:

(1) 'Home state' means the District of Columbia and any state or territory of the United States in which an insurance producer maintains a principal place of residence or principal place of business and is licensed to act as an insurance producer.

(2) 'Insurance producer' or 'producer' means a person required to be licensed under this Article to sell, solicit, or negotiate insurance.

(3) 'License' means a document issued by the Commissioner authorizing a person to act as an insurance producer for the kinds of insurance specified in the document. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit to an insurance carrier.

(4) 'Limited line credit insurance' includes any type of credit insurance written under Article 57 of this Chapter, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that the Commissioner determines should be designated a form of limited line credit insurance.

(5) 'Limited line credit insurance producer' means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

(6) 'Negotiate' means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(7) 'Sell' means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(8) 'Solicit' means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

(9) 'Uniform Application' means the most recent version of the NAIC Uniform Application for resident and nonresident producer licensing.

(10) 'Uniform Business Entity Application' means the most recent version of the NAIC Uniform Business Entity Application for a resident and a nonresident corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(c) Unless denied licensure under G.S. 58-33-30 or G.S. 58-33-50, a nonresident person shall receive a nonresident producer license if:

(1) The person is currently licensed as a resident and in good standing in that person's home state;

(2) The person has submitted the proper request for licensure and has paid the fees required by G.S. 58-33-125;

(3) The person has submitted or transmitted to the Commissioner the application for licensure that the person submitted to that person's home state, or in lieu of the same, a completed Uniform Application or Uniform Business Entity Application; and

(4) The person's home state awards nonresident producer licenses to residents of this State on the same basis.

The Commissioner may verify the producer's licensing status through the producer database maintained by the NAIC or affiliates or subsidiaries of the NAIC.

(d) Notwithstanding any other provision of this section, a person licensed as a surplus lines producer in that person's home state shall receive a nonresident surplus lines license pursuant to the provisions of this section. Except for the licensure provisions of this section, nothing in this section otherwise amends or supersedes any provision of Article 21 of this Chapter.

(e) Notwithstanding any other provision of this section, a person licensed or registered as a viatical settlement broker, viatical settlement provider, or viatical settlement representative, as defined in G.S. 58-58-42(a), in that person's home state shall receive a nonresident viatical settlement broker, viatical settlement provider, or viatical

settlement representative license pursuant to this section. Except for the licensure provisions of this section, nothing in this section otherwise amends or supersedes any provision of G.S. 58-58-42.

(f) Notwithstanding any other provision of this section, a person licensed as a limited line credit insurance producer or other type of insurance producer in that person's home state shall receive a nonresident limited lines producer license pursuant to the provisions of this section, granting the same scope of authority as granted under the license issued by the producer's home state.

(g) An individual who applies for an insurance producer license in this State who was previously licensed for the same kinds of insurance in that individual's home state shall not be required to complete any prelicensing education or examination. This exemption is available only if:

(1) The applicant is currently licensed in the applicant's home state; or

(2) The application is received within 90 days after the cancellation of the applicant's previous license and the applicant's home state issues a certification that, at the time of cancellation, the applicant was in good standing in that state; or

(3) The home state's producer database records, maintained by the NAIC or affiliates or subsidiaries of the NAIC, indicate that the producer is or was licensed in good standing for the kind of insurance requested.

(h) The Commissioner shall not assess a greater fee for an insurance license or related service to a nonresident producer based solely on the fact that the producer does not reside in this State.

(i) The Commissioner shall waive any license application requirements for a nonresident license applicant with a valid license from the applicant's home state, except the requirements imposed by subsection (c) of this section, if the applicant's home state awards nonresident licenses to residents of this State on the same basis.

(j) A nonresident producer's satisfaction of the nonresident producer's home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this State's continuing education requirements if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this State on the same basis.

(k) A producer shall report to the Commissioner any administrative action taken against the producer in another state or by another governmental agency in this State within 30 days after the final disposition of the matter. This report shall include a copy of the order or consent order and other relevant legal documents.

(l) Within 30 days after the initial pretrial hearing date, a producer shall report to the Commissioner any criminal prosecution of the producer taken in any state. The report shall include a copy of the

initial complaint filed, the order resulting from the hearing, and any other relevant legal documents."

Section 3. G.S. 58-33-30(h)(2)b. reads as rewritten:

"b. ~~A~~ Except as provided in G.S. 58-33-32, a nonresident of this State may be licensed without taking an otherwise required written examination if the ~~Commissioner~~ insurance regulator of the state of the applicant's residence certifies that the applicant has passed a similar written examination or has been a continuous holder, prior to the time such written examination was required, of a license like the license being applied for in this State."

Section 4. G.S. 58-2-25(b) reads as rewritten:

"(b) The minimum education requirements for financial analysts and examiners referred to in subsection (a) of this section are a bachelors degree, with the appropriate courses in accounting as defined in 21 NCAC 8A.0309, and other courses that are required to qualify the applicant as a candidate for the uniform certified public accountant examination, based on the examination requirements in effect at the time of ~~employment by the Department of the analyst or examiner.~~ graduation by the analyst or examiner from an accredited college or university."

Section 5. Article 45 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-45-6. Persons who can be insured by the Association.*

As used in this Article, 'person' includes any county, city, or other political subdivision of the State of North Carolina."

Section 6. Article 46 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-46-2. Persons who can be insured by the Association.*

As used in this Article, 'person' includes any county, city, or other political subdivision of the State of North Carolina."

Section 7. G.S. 58-69-2(1) reads as rewritten:

"(1) 'Branch or district office' means any physical location, other than a motor club's home ~~office, where the motor club or its representatives conduct~~ office, that is used by the motor club or its representatives as a principal place of business for conducting any type of business authorized under this ~~Article.~~ Article and as a place of business that is used by clients or prospective clients in meeting or dealing with the motor club or its representatives in the normal course of business authorized under this Article."

Section 8. G.S. 143-143.12(a) reads as rewritten:

"(a) A person licensed as a manufactured home salesperson shall not be required to furnish a bond, but each applicant approved by the Board for license as a manufacturer, dealer, or set-up contractor shall furnish a corporate surety bond, cash bond or fixed value equivalent in the following amounts:

(1) For a manufacturer, two thousand dollars ($2,000) per manufactured home manufactured in the prior license year, up to a maximum of one hundred thousand dollars ($100,000). When no manufactured homes were produced in the prior year, the amount required shall be based on the estimated number of manufactured homes to be produced during the current year.

(2) For a dealer who has ~~four or less places~~ one place of business, the amount shall be ~~twenty-five~~ thirty-five thousand dollars ~~($25,000)~~ ($35,000).

(3) For a dealer who has more than ~~four places~~ one place of business, the amount shall be ~~fifty thousand dollars ($50,000)~~ twenty-five thousand dollars ($25,000) for each additional place of business.

(4) For a set-up contractor, the amount shall be ~~five~~ ten thousand dollars ~~($5,000)~~($10,000)."

Section 9. G.S. 143-143.11A reads as rewritten:

"§ *143-143.11A. Notification of change of ~~address; service of notice.~~ address, control of ownership, and bankruptcy.*

(a) Every applicant for a license shall inform the Board of the applicant's business address. Every licensee shall give written notification to the Board of any change in the licensee's business address, for whatever reason, within 10 business days after the licensee moves to a new address or a change in the address takes place. A violation of this subsection shall not constitute grounds for revocation, suspension, or non-renewal of a license or for the imposition of any other penalty by the Board.

(b) Notwithstanding any other provision of law, whenever the Board is authorized or required to give notice to a licensee under this Article, the notice may be delivered personally to the licensee or sent by first-class mail to the licensee at the address provided to the Board under subsection (a) of this section. Notice shall be deemed given four days after mailing, and any Department employee may certify that notice has been given.

(c) Every person licensed under this Article, except for a person licensed as a manufactured home salesperson, shall give written notification to the Board of any change in ownership or control of the licensee's business within 30 business days after the change. A 'change in ownership or control' means the sale or conveyance of the capital stock of the business or of an owner's interest in the business, which operates to place a person or group of persons, not previously in control of the business, in effective control of the business. A violation of this subsection shall not constitute grounds for revocation, suspension, or nonrenewal of a license or for the imposition of any other penalty by the Board.

(d) Upon the filing for protection under the United States Bankruptcy Code by any licensee, or by any business in which the licensee holds a position of employment, management or ownership, the licensee shall notify the Board of the filing of protection within

three business days after the filing. Upon the appointment of a receiver by a court of this State for any licensee, or for any business in which the licensee holds a position of employment, management, or ownership the licensee shall notify the Board of the appointment within three business days after the appointment."

Section 10. G.S. 58-31-40 reads as rewritten:

"*§ 58-31-40. Commissioner to inspect State property; plans submitted.*

(a) ~~It is the duty of the Commissioner at least once in each year, or oftener, if deemed necessary, to~~ The Commissioner shall, at least once every year or more often if the Commissioner considers it necessary, visit, inspect, and thoroughly examine ~~each State institution or other~~ every State property ~~with a view to its~~ to analyze and determine its protection from fire, ~~as well as to the safety of its inmates or the property therein~~ including the property's occupants or contents. ~~in case of fire, and call to the attention of the board or officer having the same~~ The Commissioner shall notify the agency or official in charge of the property of any defect noted by ~~him~~ the Commissioner or any improvement ~~deemed~~ considered by the Commissioner to be necessary.

(b) No agency ~~board, commission, superintendent,~~ or other person ~~or persons~~ authorized ~~and~~ or directed by law to select ~~plans~~ a plan and erect ~~buildings~~ a building for the use of the State ~~of North Carolina~~ or any ~~institution thereof,~~ State institution shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents. No agency or person authorized or directed by law to select a plan or erect a building comprising 10,000 square feet or more for the use of any county, city, ~~or incorporated town~~ or school district shall receive and approve of ~~any plans~~ the plan until ~~they are~~ it is submitted to and approved by the Commissioner ~~of Insurance of the State~~ as to the safety of the proposed ~~buildings~~ building from fire, ~~as well as the protection of the inmates in case of fire.~~ including the property's occupants or contents."

Section 11. Sections 8 and 9 of this act become effective September 1, 2000. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law upon approval of the Governor at 8:43 a.m. on the 14th day of July, 2000.

S.B. 1195 **SESSION LAW 2000-123**

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION, IN COOPERATION WITH LOCAL ELECTED OFFICIALS, TO ESTABLISH RURAL TRANSPORTATION PLANNING ORGANIZATIONS TO PLAN

RURAL TRANSPORTATION SYSTEMS AND TO ADVISE THE DEPARTMENT ON RURAL TRANSPORTATION POLICY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-18 is amended by adding a new subdivision to read:

"(35) To establish rural planning organizations, as provided in Article 17 of this Chapter."

Section 2. Chapter 136 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 17.

"Rural Transportation Planning Organizations.

"*§ 136-210. Definitions.*

As used in this Article, 'Rural Transportation Planning Organization' means a voluntary organization of local elected officials or their designees and representatives of local transportation systems formed by a memorandum of understanding with the Department of Transportation to work cooperatively with the Department to plan rural transportation systems and to advise the Department on rural transportation policy.

"*§ 136-211. Department authorized to establish Rural Transportation Planning Organizations.*

(a) Authorization. -- The Department of Transportation is authorized to form Rural Transportation Planning Organizations.

(b) Area Represented. -- Rural Transportation Planning Organizations shall include representatives from contiguous areas in three to fifteen counties, with a total population of the entire area represented of at least 50,000 persons according to the latest population estimate of the Office of State Planning. Areas already included in a Metropolitan Planning Organization shall not be included in the area represented by a Rural Transportation Planning Organization.

(c) Membership. -- The Rural Transportation Planning Organization shall consist of local elected officials or their designees and representatives of local transportation systems in the area as agreed to by all parties in a memorandum of understanding.

(d) Formation; Memorandum of Understanding. -- The Department shall notify local elected officials and representatives of local transportation systems around the State of the opportunity to form Rural Transportation Planning Organizations. The Department shall work cooperatively with interested local elected officials, their designees, and representatives of local transportation systems to develop a proposed area, membership, functions, and responsibilities of a Rural Transportation Planning Organization. The agreement of all parties shall be included in a memorandum of understanding approved by the membership of a proposed Rural Transportation Planning Organization and the Secretary of the Department of Transportation.

"*§ 136-212. Duties of Rural Transportation Planning Organizations.*

The duties of a Rural Transportation Planning Organization shall include, but not be limited to:

(1) Developing, in cooperation with the Department, long-range local and regional multimodal transportation plans.

(2) Providing a forum for public participation in the transportation planning process.

(3) Developing and prioritizing suggestions for transportation projects the organization believes should be included in the State's Transportation Improvement Program.

(4) Providing transportation-related information to local governments and other interested organizations and persons.

"*§ 136-213. Administration and staff.*

(a) Administrative Entity. -- Each Rural Transportation Planning Organization, working in cooperation with the Department, shall select an appropriate administrative entity for the organization. Eligible administrative entities include, but are not limited to, regional economic development agencies, regional councils of government, chambers of commerce, and local governments.

(b) Professional Staff. -- The Department, each Rural Transportation Planning Organization, and any adjacent Metropolitan Planning Organization shall cooperatively determine the appropriate professional planning staff needs of the organization.

(c) Funding. -- If funds are appropriated for that purpose, the Department may make grants to Rural Transportation Planning Organizations for professional planning staff. The members of the Rural Transportation Planning Organization shall contribute at least twenty percent (20%) of the cost of any staff resources employed by the organization. The Department may make additional planning grants to economically distressed counties, as designated by the North Carolina Department of Commerce."

Section 3. Nothing in this act shall require the General Assembly to appropriate funds to implement it. Neither the Department of Transportation nor the General Assembly shall reallocate any road maintenance funds to implement this act.

Section 4. The Department shall report to the Joint Legislative Transportation Oversight Committee on the implementation of this act on or before December 1, 2000.

Section 5. This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

Became law upon approval of the Governor at 8:45 a.m. on the 14th day of July, 2000.

S.B. 1340 **SESSION LAW 2000-124**

AN ACT TO CLARIFY THE STATUS OF A GUARDIAN OF THE PERSON OF A JUVENILE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7B-600 reads as rewritten:

"*§ 7B-600. Appointment of guardian.*

(a) In any case when no parent appears in a hearing with the juvenile or when the court finds it would be in the best interests of the juvenile, the court may appoint a guardian of the person for the juvenile. The guardian shall operate under the supervision of the court with or without bond and shall file only such reports as the court shall require. The guardian shall have the care, custody, and control of the juvenile or may arrange a suitable placement for the juvenile and may represent the juvenile in legal actions before any court. The guardian may consent to certain actions on the part of the juvenile in place of the parent including (i) marriage, (ii) enlisting in the armed forces, and (iii) enrollment in school. The guardian may also consent to any necessary remedial, psychological, medical, or surgical treatment for the juvenile. The authority of the guardian shall continue until the guardianship is terminated by court order, until the juvenile is emancipated pursuant to Article 35 of Subchapter IV of this Chapter, or until the juvenile reaches the age of majority.

(b) In any case where the court has determined that the appointment of a relative or other suitable person as guardian of the person for a juvenile is in the best interest of the juvenile and has also made findings in accordance with G.S. 7B-907 that guardianship is the permanent plan for the juvenile, the court may not terminate the guardianship or order that the juvenile be reintegrated into a parent's home unless the court finds that the relationship between the guardian and the juvenile is no longer in the juvenile's best interest, that the guardian is unfit, that the guardian has neglected a guardian's duties, or that the guardian is unwilling or unable to continue assuming a guardian's duties. If a party files a motion or petition under G.S. 7B-906 or G.S. 7B-1000, the court may, prior to conducting a review hearing, do one or more of the following:

(1) Order the county department of social services to conduct an investigation and file a written report of the investigation regarding the performance of the guardian of the person of the juvenile and give testimony concerning its investigation.

(2) Utilize the community resources in behavioral sciences and other professions in the investigation and study of the guardian.

(3) Ensure that a guardian ad litem has been appointed for the juvenile in accordance with G.S. 7B-601 and has been notified of the pending motion or petition.

(4) Take any other action necessary in order to make a determination in a particular case."

Section 2. G.S. 7B-906(b) reads as rewritten:

"(b) Notwithstanding other provisions of this Article, the court may waive the holding of review hearings required by subsection (a) of this section, may require written reports to the court by the agency or person holding custody in lieu of review hearings, or order that review

hearings be held less often than every six months, if the court finds by clear, cogent, and convincing evidence that:

(1) The juvenile has resided with a relative or has been in the custody of another suitable person for a period of at least one year;

(2) The placement is stable and continuation of the placement is in the juvenile's best interests;

(3) Neither the juvenile's best interests nor the rights of any party require that review hearings be held every six months;

(4) All parties are aware that the matter may be brought before the court for review at any time by the filing of a motion for review or on the court's own motion; and

(5) The court order has designated the relative or other suitable person as the juvenile's permanent caretaker or guardian of the person.

The court may not waive or refuse to conduct a review hearing if a party files a motion seeking the review. However, if a guardian of the person has been appointed for the juvenile and the court has also made findings in accordance with G.S. 7B-907 that guardianship is the permanent plan for the juvenile, the court shall proceed in accordance with G.S. 7B-600(b)."

Section 3. G.S. 7B-1000(a) reads as rewritten:

"(a) Upon motion in the cause or petition, and after notice, the court may conduct a review hearing to determine whether the order of the court is in the best interests of the juvenile, and the court may modify or vacate the order in light of changes in circumstances or the needs of the juvenile. Notwithstanding the provision of this subsection, if a guardian of the person has been appointed for the juvenile and the court has also made findings in accordance with G.S. 7B-907 that guardianship is the permanent plan for the juvenile, the court shall proceed in accordance with G.S. 7B-600(b)."

Section 4. This act becomes effective October 1, 2000.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

Became law upon approval of the Governor at 8:46 a.m. on the 14th day of July, 2000.

H.B. 813 **SESSION LAW 2000-125**

AN ACT TO MAKE CYBERSTALKING A CRIMINAL OFFENSE, CLARIFY THE CRIMINAL ACT OF INTRODUCING COMPUTER VIRUSES, AND TO PERMIT DOMESTIC VIOLENCE ABUSER TREATMENT AS A SPECIAL CONDITION OF PROBATION IN CERTAIN CRIMINAL CASES AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. Article 35 of Chapter 14 is amended by adding a new section to read:

"*§ 14-196.3. Cyberstalking.*

(a) The following definitions apply in this section:

(1) Electronic communication. -- Any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature, transmitted in whole or in part by a wire, radio, computer, electromagnetic, photoelectric, or photo-optical system.

(2) Electronic mail. -- The transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

(b) It is unlawful for a person to:

(1) Use in electronic mail or electronic communication any words or language threatening to inflict bodily harm to any person or to that person's child, sibling, spouse, or dependent, or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person.

(2) Electronically mail or electronically communicate to another repeatedly, whether or not conversation ensues, for the purpose of abusing, annoying, threatening, terrifying, harassing, or embarrassing any person.

(3) Electronically mail or electronically communicate to another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct, or criminal conduct of the person electronically mailed or of any member of the person's family or household with the intent to abuse, annoy, threaten, terrify, harass, or embarrass.

(4) Knowingly permit an electronic communication device under the person's control to be used for any purpose prohibited by this section.

(c) Any offense under this section committed by the use of electronic mail or electronic communication may be deemed to have been committed where the electronic mail or electronic communication was originally sent, originally received in this State, or first viewed by any person in this State.

(d) Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

(e) This section does not apply to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly."

Section 2. G.S. 14-196(a)(2) reads as rewritten:

"(2) To use in telephonic ~~or electronic mail~~ communications any words or language threatening to inflict bodily harm to any person or to that person's child, sibling, spouse, or dependent or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person;".

Section 3. G.S. 14-453 reads as rewritten:

"*§ 14-453. Definitions.*

As used in this Article, unless the context clearly requires otherwise, the following terms have the meanings specified:

(1) 'Access' means to instruct, communicate with, cause input, cause output, cause data processing, or otherwise make use of any resources of a computer, computer system, or computer network.

(1a) 'Authorization' means having the consent or permission of the owner, or of the person licensed or authorized by the owner to grant consent or permission to access a computer, computer system, or computer network in a manner not exceeding the consent or permission.

(1b) 'Commercial electronic mail' means messages sent and received electronically consisting of commercial advertising material, the principal purpose of which is to promote the for-profit sale or lease of goods or services to the recipient.

(2) 'Computer' means an internally programmed, automatic device that performs data processing or telephone switching.

(3) 'Computer network' means the interconnection of communication systems with a computer through remote terminals, or a complex consisting of two or more interconnected computers or telephone switching equipment.

(4) 'Computer program' means an ordered set of data that are coded instructions or statements that when executed by a computer cause the computer to process data.

(4a) 'Computer services' means computer time or services, including data processing services, Internet services, electronic mail services, electronic message services, or information or data stored in connection with any of these services.

(5) 'Computer software' means a set of computer programs, procedures and associated documentation concerned with the operation of a computer, computer system, or computer network.

(6) 'Computer system' means at least one computer together with a set of related, connected, or unconnected peripheral devices.

(6a) 'Data' means a representation of information, facts, knowledge, concepts, or instructions prepared in a formalized or other manner and intended for use in a

computer, computer system, or computer network. Data may be embodied in any form ~~including, but not limited to,~~ including computer printouts, magnetic storage media, optical storage media, and punch cards, or may be stored internally in the memory of a computer.

(6b) 'Electronic mail' means the same as the term is defined in G.S. 14-196.3(a)(2).

~~(6b)~~ (6c) 'Electronic mail service provider' means any person who (i) is an intermediary in sending or receiving electronic mail and (ii) provides to end users of electronic mail services the ability to send or receive electronic mail.

(7) 'Financial instrument' includes any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card or marketable security, or any electronic data processing representation thereof.

(8) 'Property' includes financial instruments, information, including electronically processed or produced data, and computer software and computer programs in either machine or human readable form, and any other tangible or intangible item of value.

(8a) 'Resource' includes peripheral devices, computer software, computer programs, and data, and means to be a part of a computer, computer system, or computer network.

(9) 'Services' includes computer time, data processing and storage functions.

(10) 'Unsolicited' means not addressed to a recipient with whom the initiator has an existing business or personal relationship and not sent at the request of, or with the express consent of, the recipient."

Section 4. G.S. 14-454 reads as rewritten:

"§ *14-454. Accessing computers.*

(a) It is unlawful to willfully, directly or indirectly, access or cause to be accessed any computer, computer program, computer system, computer network, or any part thereof, for the purpose of:

(1) Devising or executing any scheme or artifice to defraud, unless the object of the scheme or artifice is to obtain educational testing material, a false educational testing score, or a false academic or vocational grade, or

(2) Obtaining property or services other than educational testing material, a false educational testing score, or a false academic or vocational grade for a person, by means of false or fraudulent pretenses, representations or promises.

A violation of this subsection is a Class G felony if the fraudulent scheme or artifice results in damage of more than one thousand dollars ($1,000), or if the property or services obtained are worth more than one thousand dollars ($1,000). Any other violation of this subsection is a Class 1 misdemeanor.

(b) Any person who willfully and without authorization, directly or indirectly, accesses or causes to be accessed any computer, computer program, computer system, or computer network for any purpose other than those set forth in subsection (a) above, is guilty of a Class 1 misdemeanor.

(c) For the purpose of this section, the ~~term "accessing or causing~~ phrase 'access or cause to be accessed' includes introducing, directly or indirectly, a computer program (including a self-replicating or a self-propagating computer program) into a computer, computer program, computer system, or computer network."

Section 5. G.S. 14-455 reads as rewritten:

"*§ 14-455. Damaging computers, computer programs, computer systems, computer networks, and resources.*

(a) It is unlawful to willfully and without authorization alter, damage, or destroy a computer, computer program, computer system, computer network, or any part thereof. A violation of this subsection is a Class G felony if the damage caused by the alteration, damage, or destruction is more than one thousand dollars ($1,000). Any other violation of this subsection is a Class 1 misdemeanor.

(b) This section applies to alteration, damage, or destruction effectuated by introducing, directly or indirectly, a computer program (including a self-replicating or a self-propagating computer program) into a computer, computer program, computer system, or computer network."

Section 6. G.S. 14-456 reads as rewritten:

"*§ 14-456. Denial of computer services to an authorized user.*

(a) Any person who willfully and without authorization denies or causes the denial of computer, computer program, computer system, or computer network services to an authorized user of the computer, computer program, computer system, or computer network services is guilty of a Class 1 misdemeanor.

(b) This section also applies to denial of services effectuated by introducing, directly or indirectly, a computer program (including a self-replicating or a self-propagating computer program) into a computer, computer program, computer system, or computer network."

Section 7. G.S. 14-458(a) reads as rewritten:

"(a) ~~It~~ Except as otherwise made unlawful by this Article, it shall be unlawful for any person to use a computer or computer network without authority and with the intent to do any of the following:

(1) Temporarily or permanently remove, halt, or otherwise disable any computer data, computer programs, or computer software from a computer or computer network.

(2) Cause a computer to malfunction, regardless of how long the malfunction persists.

(3) Alter or erase any computer data, computer programs, or computer software.

(4) Cause physical injury to the property of another.

(5) Make or cause to be made an unauthorized copy, in any form, including, but not limited to, any printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network.

(6) Falsely identify with the intent to deceive or defraud the recipient or forge commercial electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk commercial electronic mail through or into the computer network of an electronic mail service provider or its subscribers.

For purposes of this subsection, a person is "without authority" when (i) the person has no right or permission of the owner to use a computer, or the person uses a computer in a manner exceeding the right or permission, or (ii) the person uses a computer or computer network, or the computer services of an electronic mail service provider to transmit unsolicited bulk commercial electronic mail in contravention of the authority granted by or in violation of the policies set by the electronic mail service provider."

Section 8. G.S. 15A-1343(b1) reads as rewritten:

"(b1) Special Conditions. -- In addition to the regular conditions of probation specified in subsection (b), the court may, as a condition of probation, require that during the probation the defendant comply with one or more of the following special conditions:

(1) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(2) Attend or reside in a facility providing rehabilitation, counseling, treatment, social skills, or employment training, instruction, recreation, or residence for persons on probation.

(2a) Submit to a period of residential treatment in the Intensive Motivational Program of Alternative Correctional Treatment (IMPACT), pursuant to G.S. 15A-1343.1, for a minimum of 90 days or a maximum of 120 days and abide by all rules and regulations of that program. This condition may also include a period of supervision through the Post-Boot Camp Probation Program.

(2b) Participate in and successfully complete a Drug Treatment Court Program pursuant to Article 62 of Chapter 7A of the General Statutes.

(3) Submit to imprisonment required for special probation under G.S. 15A-1351(a) or G.S. 15A-1344(e).

(3a) Repealed by Session Laws 1997-57, s. 3.

(3b) Submit to supervision by officers assigned to the Intensive Supervision Program established pursuant to G.S. 143B-262(c), and abide by the rules adopted for that Program. Unless otherwise ordered by the court, intensive

supervision also requires multiple contacts by a probation officer per week, a specific period each day during which the offender must be at his or her residence, and that the offender remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip the offender for suitable employment.

(3c) Remain at his or her residence unless the court or the probation officer authorizes the offender to leave for the purpose of employment, counseling, a course of study, or vocational training. The offender shall be required to wear a device which permits the supervising agency to monitor the offender's compliance with the condition electronically.

(4) Surrender his or her driver's license to the clerk of superior court, and not operate a motor vehicle for a period specified by the court.

(5) Compensate the Department of Environment and Natural Resources or the North Carolina Wildlife Resources Commission, as the case may be, for the replacement costs of any marine and estuarine resources or any wildlife resources which were taken, injured, removed, harmfully altered, damaged or destroyed as a result of a criminal offense of which the defendant was convicted. If any investigation is required by officers or agents of the Department of Environment and Natural Resources or the Wildlife Resources Commission in determining the extent of the destruction of resources involved, the court may include compensation of the agency for investigative costs as a condition of probation. This subdivision does not apply in any case governed by G.S. 143-215.3(a)(7).

(6) Perform community or reparation service and pay any fee required by law or ordered by the court for participation in the community or reparation service program.

(7) Submit at reasonable times to warrantless searches by a probation officer of his or her person and of his or her vehicle and premises while ~~he~~ the probationer is present, for purposes specified by the court and reasonably related to his or her probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful. Whenever the warrantless search consists of testing for the presence of illegal drugs, the probationer may also be required to reimburse the Department of Correction for the actual cost of drug screening and drug testing, if the results are positive.

(8) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him or her by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any such illegal drugs or controlled

substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.

(8a) Purchase the least expensive annual statewide license or combination of licenses to hunt, trap, or fish listed in G.S. 113-270.2, 113-270.3, 113-270.5, 113-271, 113-272, and 113-272.2 that would be required to engage lawfully in the specific activity or activities in which the defendant was engaged and which constitute the basis of the offense or offenses of which he was convicted.

(9) If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court should encourage the minor and the minor's parents or custodians to participate in rehabilitative treatment and may order the defendant to pay the cost of such treatment.

(9a) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) the program is approved by the Department of Administration.

(10) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation."

Section 9. G.S. 50B-3(a) reads as rewritten:

"(a) The court, including magistrates as authorized under G.S. 50B-2(c1), may grant any protective order or approve any consent agreement to bring about a cessation of acts of domestic violence. The orders or agreements may:

(1) Direct a party to refrain from such acts;

(2) Grant to a party possession of the residence or household of the parties and exclude the other party from the residence or household;

(3) Require a party to provide a spouse and his or her children suitable alternate housing;

(4) Award temporary custody of minor children and establish temporary visitation rights;

(5) Order the eviction of a party from the residence or household and assistance to the victim in returning to it;

(6) Order either party to make payments for the support of a minor child as required by law;

(7) Order either party to make payments for the support of a spouse as required by law;

(8) Provide for possession of personal property of the parties;

(9) Order a party to refrain from doing any or all of the following:

a. Threatening, abusing, or following the other party,

b. Harassing the other party, including by telephone, visiting the home or workplace, or other means, or

c. Otherwise interfering with the other party;

(10) Award costs and attorney's fees to either party;

(11) Prohibit a party from purchasing a firearm for a time fixed in the order;

(12) Order any party the court finds is responsible for acts of domestic violence to attend and complete an abuser treatment program if the program is ~~available within a reasonable distance of that party's residence and is~~ approved by the Department of Administration; and

(13) Include any additional prohibitions or requirements the court deems necessary to protect any party or any minor child."

Section 10. This act becomes effective December 1, 2000, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

Became law upon approval of the Governor at 8:46 a.m. on the 14th day of July, 2000.

H.B. 1559 **SESSION LAW 2000-126**

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS, TO CONFORM TO FEDERAL LAW REGARDING PENSION TAX WITHHOLDING AND DEADLINES FOR PAYMENTS OF CERTAIN ESTIMATED INCOME TAXES, TO CLARIFY THE SALES FACTOR FOR DETERMINATION OF STATE CORPORATE INCOME AND FRANCHISE TAX, AND TO ENABLE THE COLLECTION OF TAX DEBT OWED TO NORTH CAROLINA THROUGH THE FEDERAL TREASURY OFFSET PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.90(b)(1a) reads as rewritten:

"(b) Definitions. -- The following definitions apply in this Article:

. . .

(1a) Code. -- The Internal Revenue Code as enacted as of ~~June 1, 1999~~, January 1, 2000, including any provisions enacted as of that date which become effective either before or after that date."

Section 2. G.S. 105-163.1(11b) reads as rewritten:

"(11b) **(Effective January 1, 2001)** Pension payment. -- A periodic payment or a nonperiodic distribution ~~that is not an eligible rollover distribution,~~ as those terms are defined in section 3405 of the Code."

Section 3. G.S. 105-163.2A(d) reads as rewritten:

"(d) Election of No Withholding. -- The recipient may elect not to have taxes withheld under this ~~section.~~ section to the extent permitted by section 3405 of the Code. The election must be in the form required by the Secretary. In the case of periodic payments, the election remains in effect until revoked by the recipient. In the case of

a nonperiodic distribution, the election applies on a distribution-by-distribution basis unless it meets conditions prescribed by the Secretary for it to apply to subsequent nonperiodic distributions by the pension payer.

A pension payer must notify each recipient of the right to elect not to have taxes withheld under this section. The notice must comply with the requirements of section 3405 of the Code and any additional requirements prescribed by the Secretary.

A recipient's election not to have taxes withheld under this section is void if the recipient fails to furnish the recipient's tax identification number to the pension payer, or the Secretary has notified the pension payer that the tax identification number furnished by the recipient is incorrect."

Section 4. G.S. 105-163.15(i) reads as rewritten:

"(i) Notwithstanding ~~the other provisions~~ subsections (c), (d), (e), and (h) of this section, an individual who is a farmer or fisherman for a taxable year is subject to the provisions of this subsection.

(1) One installment. -- The individual is required to make only one installment payment of tax for that taxable year. This installment is due on or before January 15 of the following taxable ~~year but may be paid without penalty or interest on or before March 1 of that~~ year. The amount of the installment payment ~~shall~~ must be the lesser of:

~~(1)~~ a. Sixty-six and two-thirds percent (66 2/3%) of the tax shown on the return for the taxable year, or, if no return is filed, sixty-six and two-thirds percent (66 2/3%) of the tax for that year; or

~~(2)~~ b. One hundred percent (100%) of the tax shown on the return of the individual for the preceding taxable year, if the preceding taxable year was a taxable year of 12 months and the individual filed a return for that year.

(2) Exception. -- If, on or before March 1 of the following taxable year, the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, no addition to tax is imposed under subsection (a) of this section with respect to any underpayment of the required installment for the taxable year.

(3) Eligibility. -- An individual is a farmer or fisherman for any taxable year if the individual's gross income from farming or fishing, including oyster farming, for the taxable year is at least sixty-six and two-thirds percent (66 2/3%) of the total gross income from all sources for the taxable year, or the individual's gross income from farming or fishing, including oyster farming, shown on the return of the individual for the preceding taxable year is at least sixty-six and two-thirds percent (66 2/3%) of the total gross income from all sources shown on the return."

Section 5. G.S. 105-130.4(a)(7) reads as rewritten:

"(a) As used in this section, unless the context otherwise requires:

. . .

(7) "Sales" means all gross receipts of the corporation except ~~receipts~~ for the following receipts:

a. Receipts from ~~any~~ a casual sale of ~~property and except receipts~~ property.

b. Receipts allocated under subsections (c) through (h) of this section.

c. Receipts exempt from taxation.

d. The portion of receipts realized from the sale or maturity of securities or other obligations that represents a return of principal."

Section 6. G.S. 105A-13 reads as rewritten:

"§ *105A-13. Collection assistance fees.*

(a) State Setoff. -- To recover the costs incurred by the Department in collecting debts under this Chapter, a collection assistance fee of no more than fifteen dollars ($15.00) is imposed on each debt collected through setoff. The Department must collect this fee as part of the debt and retain it. The Department must set the amount of the collection assistance fee based on its actual cost of collection under this Chapter for the immediately preceding year. If the Department is able to collect only part of a debt through setoff, the collection assistance fee has priority over the remainder of the debt. The collection assistance fee shall not be added to child support debts or collected as part of child support debts. Instead, the Department shall retain from collections under Division II of Article 4 of Chapter 105 of the General Statutes the cost of collecting child support debts under this Chapter.

(b) Federal Setoff. -- A collection assistance fee of fifteen dollars ($15.00) applies to a setoff made by the United States Department of the Treasury to recover tax owed to North Carolina. The Department of Revenue must add the fee to the amount of the tax liability submitted to the United States Department of the Treasury for setoff. The Department of Revenue must collect the fee as part of the debt and retain it. If a federal setoff covers only part of the tax due, the collection assistance fee has priority over the tax due."

Section 7. Notwithstanding Section 1 of this bill, any amendments to the Internal Revenue Code enacted in 1999 that increase North Carolina taxable income for the 1999 taxable year become effective for taxable years beginning on or after January 1, 2000.

Section 8. Sections 2 and 3 of this act become effective January 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 2000.

Became law upon approval of the Governor at 8:47 a.m. on the 14th day of July, 2000.

S.B. 393 **SESSION LAW 2000-127**

AN ACT TO AMEND THE RULES OF CIVIL PROCEDURE TO REQUIRE BRIEFS AND MEMORANDA IN SUPPORT OR OPPOSITION OF DISPOSITIVE MOTIONS AND OPPOSING AFFIDAVITS TO BE SERVED UPON ALL PARTIES AND TO REQUIRE WRITTEN MOTIONS TO STATE THE GROUNDS FOR THE MOTION WITH PARTICULARITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 5 reads as rewritten:

"**Rule 5. Service and filing of pleadings and other papers.**

(a) Service of orders, subsequent pleadings, discovery papers, written motions, written notices, and other similar papers -- When required. -- Every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment and similar paper shall be served upon each of the parties, but no service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4.

(a1) Service of briefs or memoranda in support or opposition of certain dispositive motions. -- In actions in superior court, every brief or memorandum in support of or in opposition to a motion to dismiss, a motion for judgment on the pleadings, a motion for summary judgment, or any other motion seeking a final determination of the rights of the parties as to one or more of the claims or parties in the action shall be served upon each of the parties at least two days before the hearing on the motion. If the brief or memorandum is not served on the other parties at least two days before the hearing on the motion, the court may continue the matter for a reasonable period to allow the responding party to prepare a response, proceed with the matter without considering the untimely served brief or memorandum, or take such other action as the ends of justice require. The parties may, by consent, alter the period of time for service. For the purpose of this two-day requirement only, service shall mean personal delivery, facsimile transmission, or other means such that the party actually receives the brief within the required time.

(b) Service -- How made. -- A pleading setting forth a counterclaim or cross claim shall be filed with the court and a copy thereof shall be served on the party against whom it is asserted or on his attorney of record. With respect to all pleadings subsequent to the original complaint and other papers required or permitted to be served, service with due return may be made in the manner provided for service and return of process in Rule 4 and may be made upon either the party

or, unless service upon the party himself is ordered by the court, upon his attorney of record. With respect to such other pleadings and papers, service upon the attorney or upon a party may also be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by filing it with the clerk of court. Delivery of a copy within this rule means handing it to the attorney or to the party; or leaving it at the attorney's office with a partner or employee. Service by mail shall be complete upon deposit of the pleading or paper enclosed in a post-paid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service.

(c) Service -- Numerous defendants. -- In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any crossclaim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) Filing. -- All pleadings subsequent to the complaint shall be filed with the court. All other papers required to be served upon a party, including requests for admissions, shall be filed with the court either before service or within five days thereafter, except that depositions, interrogatories, requests for documents, and answers and responses to those requests may not be filed unless ordered by the court or until used in the proceeding. The party taking a deposition or obtaining material through discovery is responsible for its preservation and delivery to the court if needed or so ordered. With respect to all pleadings and other papers as to which service and return has not been made in the manner provided in Rule 4, proof of service shall be made by filing with the court a certificate either by the attorney or the party that the paper was served in the manner prescribed by this rule, or a certificate of acceptance of service by the attorney or the party to be served. Such certificate shall show the date and method of service or the date of acceptance of service.

(e) (1) Filing with the court defined. -- The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.

(2) Filing by telefacsimile transmission. -- If, pursuant to G.S. 7A-34 and G.S. 7A-343, the Supreme Court and the Administrative Officer of the Courts establish uniform rules, regulations, procedures and specifications for the filing of pleadings or other court papers by telefacsimile

transmission, filing may be made by the transmission when, in the manner, and to the extent provided therein."

Section 2. G.S. 1A-1, Rule 7(b) reads as rewritten:

"(b) Motions and other papers. --

(1) An application to the court for an order shall be by motion which, unless made during a hearing or trial or at a session at which a cause is on the calendar for that session, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) The rules applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these rules.

(3) A motion to transfer under G.S. 7A-258 shall comply with the directives therein specified but the relief thereby obtainable may also be sought in a responsive pleading pursuant to Rule 12(b)."

Section 3. The Revisor of Statutes shall cause to be printed along with this act the following statement to the Official Comment for G.S. 1A-1, Rule 5(a1):

"The rule does not require any party to submit a brief or memorandum; it only applies in certain instances in which a party intends to submit a brief or memorandum to the court. The rule would not preclude a party from providing the judge with copies of cases or statutes at a hearing."

This addition to the Official Comment shall only be for annotation purposes and shall not be construed to be the law.

Section 4. The Revisor of Statutes shall cause to be printed along with this act the following statement to the Official Comment for G.S. 1A-1, Rule 7(b):

"The 2000 amendment conforms the North Carolina rule to federal Rule 7(b). The federal courts do not apply the particularity requirement as a procedural technicality to deny otherwise meritorious motions. Rather, the federal courts apply the rule to protect parties from prejudice, to assure that opposing parties can comprehend the basis for the motion and have a fair opportunity to respond."

This addition to the Official Comment shall only be for annotation purposes and shall not be construed to be the law.

Section 5. G.S. 1A-1, Rule 6(d) reads as rewritten:

"(d) For motions, affidavits. -- A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than five days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and except as otherwise provided in Rule 59(c), opposing affidavits ~~may unless the court permits them to be served at some other time be served not later than one day~~ shall be

served at least two days before the hearing. If the opposing affidavit is not served on the other parties at least two days before the hearing on the motion, the court may continue the matter for a reasonable period to allow the responding party to prepare a response, proceed with the matter without considering the untimely served affidavit, or take such other action as the ends of justice require. For the purpose of this two-day requirement only, service shall mean personal delivery, facsimile transmission, or other means such that the party actually receives the affidavit within the required time."

Section 6. G.S. 1A-1, Rule 56(c) reads as rewritten:

"(c) Motion and proceedings thereon. -- The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party ~~prior to the day of hearing~~ may serve opposing ~~affidavits.~~ affidavits at least two days before the hearing. If the opposing affidavit is not served on the other parties at least two days before the hearing on the motion, the court may continue the matter for a reasonable period to allow the responding party to prepare a response, proceed with the matter without considering the untimely served affidavit, or take such other action as the ends of justice require. For the purpose of this two-day requirement only, service shall mean personal delivery, facsimile transmission, or other means such that the party actually receives the affidavit within the required time.

The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is genuine issue as to the amount of damages. Summary judgment, when appropriate, may be rendered against the moving party."

Section 7. This act becomes effective October 1, 2000, and applies to motions subject to this act and to briefs, memoranda, and affidavits subject to this act filed on or after that date.

In the General Assembly read three times and ratified this the 7th day of July, 2000.

Became law upon approval of the Governor at 8:48 a.m. on the 14th day of July, 2000.

H.B. 1473 **SESSION LAW 2000-128**

AN ACT TO MODIFY THE INCOME TAX CREDIT FOR MANUFACTURERS OF CERTAIN RENEWABLE ENERGY EQUIPMENT AND TO FURTHER ADJUST THE SHARE CERTAIN CITIES RECEIVE FROM THE STATE GROSS RECEIPTS TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.28 reads as rewritten:

"§ *105-130.28. Credit against corporate income tax for construction of a ~~photovoltaic~~ renewable energy equipment facility.*

(a) ~~Any~~ Credit. -- A corporation that constructs in North Carolina a facility for the ~~production of photovoltaic~~ manufacture of renewable energy equipment is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the installation and equipment costs of construction paid during the taxable year. The entire credit may not be taken for the taxable year in which the costs are paid but must be taken in five equal installments beginning with the taxable year in which the costs are paid.

No credit is allowed, however, to the extent that any of the costs of the equipment were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the facility at the time of construction. ~~The credit allowed by this section may not exceed the amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except payments of tax made by or on behalf of the taxpayer.~~

(b) ~~As used in this section, "photovoltaic equipment" means those products designed, manufactured, and produced to convert sunlight directly into electricity.~~ Definitions. -- The following definitions apply in this section:

(1) Biomass equipment. -- Products designed to use renewable biomass resources for biofuel production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical generation from renewable energy crops or wood waste materials. The term also includes related devices for converting, conditioning, and storing the liquid fuels, gas, and electricity produced with biomass equipment.

(2) Hydroelectric generator. -- Defined in G.S. 105-129.15.

(3) Renewable biomass resources. -- Defined in G.S. 105-129.15.

(4) Renewable energy equipment. -- Biomass equipment, hydroelectric generators, solar electric or thermal equipment, and wind energy equipment.

(5) Solar electric or thermal equipment. -- Products designed to convert sunlight into electricity or heat.

(6) Wind energy equipment. -- Products designed to capture and convert wind energy into electricity or mechanical power.

(c) Cap. -- The credit allowed by this section may not exceed fifty percent (50%) of the amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except payments of tax made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of the credit, including carryforwards, claimed by the taxpayer under this section for the taxable year. Any unused portion of the credit may be carried forward for the succeeding 10 years. ~~The amount of credit allowed~~

~~under this section may be carried over for the next succeeding five years.~~

(d) No Double Credit. -- A taxpayer that claims any other credit allowed under this Chapter with respect to construction of a facility for the manufacture of renewable energy equipment may not take the credit allowed in this section with respect to the same facility."

Section 2. G.S. 105-116.1 reads as rewritten:

"*§ 105-116.1. Distribution of gross receipts taxes to cities.*

(a) Definitions. -- The following definitions apply in this section:

(1) Freeze deduction. -- The amount by which the percentage distribution amount of a city was required to be reduced in fiscal year 1995-96 in determining the amount to distribute to the city.

(2) Percentage distribution amount. -- Three and nine hundredths percent (3.09%) of the gross receipts derived by an electric power company and a telephone company from sales within a city that are taxable under G.S. 105-116 or G.S. 105-120.

(b) Distribution. -- The Secretary must distribute to the cities part of the taxes collected under this Article on electric power companies and telephone companies. Each city's share for a calendar quarter is the percentage distribution amount for that city for that quarter minus one-fourth of the city's hold-back amount and one-fourth of the city's proportionate share of the annual cost to the Department of administering the distribution. The Secretary must make the distribution within 75 days after the end of each calendar quarter.

(c) Limited Hold-Harmless Adjustment. -- The hold-back amount for a city that, in the 1995-96 fiscal year, received from gross receipts taxes less than ninety-five percent (95%) of the amount it received in the 1990-91 fiscal year but at least sixty percent (60%) of the amount it received in the 1990-91 fiscal year is the amount determined by the following calculation:

(1) Adjust the city's 1995-96 distribution by adding the city's freeze deduction to the amount distributed to the city for that year.

(2) Compare the adjusted 1995-96 amount with the city's 1990-91 distribution.

(3) If the adjusted 1995-96 amount is less than or equal to the city's 1990-91 distribution, the hold-back amount for the city is zero.

(4) If the adjusted 1995-96 amount is more than the city's 1990-91 distribution, the hold-back amount for the city is the city's freeze deduction minus the difference between the city's 1990-91 distribution and the city's 1995-96 distribution.

(c1) Additional Limited Hold-Harmless Adjustment. -- The hold-back amount for a city that, in the 1995-96 fiscal year, received from gross receipts taxes less than sixty percent (60%) of the amount it

received in the 1990-91 fiscal year is the amount determined by the following calculation:

(1) Adjust the city's 1999-2000 distribution by adding the city's freeze deduction to the amount distributed to the city for that year.

(2) Compare the adjusted 1999-2000 amount with the city's 1990-91 distribution.

(3) If the adjusted 1999-2000 amount is less than or equal to the city's 1990-91 distribution, the hold-back amount for the city is zero.

(4) If the adjusted 1999-2000 amount is more than the city's 1990-91 distribution, the hold-back amount for the city is the city's freeze deduction minus the difference between the city's 1990-91 distribution and the city's 1999-2000 distribution.

(d) Allocation of Hold-Harmless Adjustment. -- The hold-back amount for a city that, in the 1995-96 fiscal year, received from gross receipts taxes at least ninety-five percent (95%) of the amount it received in the 1990-91 fiscal year is the amount determined by the following calculation:

(1) Determine the amount by which the freeze deduction is reduced for all cities whose hold-back amount is determined under ~~subsection (c)~~ subsections (c) and (c1) of this section. This amount is the total hold-harmless adjustment.

(2) Determine the amount of gross receipts taxes that would be distributed for the quarter to cities whose hold-back amount is determined under this subsection if these cities received their percentage distribution amount minus one-fourth of their freeze deduction.

(3) For each city included in the calculation in subdivision (2) of this subsection, determine that city's percentage share of the amount determined under that subdivision.

(4) Add to the city's freeze deduction an amount equal to the city's percentage share under subdivision (3) of this subsection multiplied by the total hold-harmless adjustment.

(e) Disqualification. -- No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999."

Section 3. G.S. 105-130.28, as amended by this act, is repealed effective for costs incurred during taxable years beginning on or after January 1, 2006.

Section 4. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under the statute repealed by this act before the effective date of its repeal, nor does it affect the

right to any refund or credit of a tax that accrued under the repealed statute before the effective date of its repeal.

Section 5. Sections 1 and 3 of this act are effective for taxable years beginning on or after January 1, 2000. Section 2 of this act becomes effective October 1, 2000, and applies to distributions made on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 2000.

Became law upon approval of the Governor at 8:49 a.m. on the 14th day of July, 2000.

H.B. 1520 **SESSION LAW 2000-129**

AN ACT PERTAINING TO THE USE OF RESTRAINTS AND SECLUSION IN CERTAIN FACILITIES, REQUIRING THE REPORTING OF CERTAIN DEATHS IN CERTAIN FACILITIES, AND IMPOSING A PENALTY FOR FAILURE TO REPORT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122C-60 reads as rewritten:

"*§ 122C-60. Use of physical restraints or seclusion.*

(a) Physical restraint or seclusion of a client shall be employed only when there is imminent danger of abuse or injury to ~~himself~~ the client or others, when substantial property damage is occurring, or when the restraint or seclusion is necessary as a measure of therapeutic treatment. All instances of restraint or seclusion and the detailed reasons for such action shall be documented in the client's record. Each client who is restrained or secluded shall be observed frequently, and a written notation of the observation shall be made in the client's record.

(a1) A facility that employs physical restraint or seclusion of a client shall collect data on the use of the restraints and seclusion. The data shall reflect for each incidence, the type of procedure used, the length of time employed, alternatives considered or employed, and the effectiveness of the procedure or alternative employed. The facility shall analyze the data on at least a quarterly basis to monitor effectiveness, determine trends, and take corrective action where necessary. The facility shall make the data available to the Secretary upon request. Nothing in this subsection abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Secretary under this subsection. In reviewing data requested under this subsection, the Secretary shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this subsection.

(a2) Facilities shall implement policies and practices that emphasize the use of alternatives to physical restraint and seclusion. Physical restraint and seclusion may be employed only by staff who have been trained and have demonstrated competence in the proper use of and alternatives to these procedures. Facilities shall ensure that staff authorized to employ and terminate these procedures are retrained and have demonstrated competence at least annually.

(b) The Commission ~~may~~ shall adopt rules to implement this section. In adopting rules, the Commission shall take into consideration federal regulations and national accreditation standards. Rules adopted by the Commission shall include:

(1) Staff training and competence in:
   a. The use of positive behavioral supports.
   b. Communication strategies for defusing and deescalating potentially dangerous behavior.
   c. Monitoring vital indicators.
   d. Administration of CPR.
   e. Debriefing with client and staff.
   f. Methods for determining staff competence, including qualifications of trainers and training curricula.
   g. Other areas to ensure the safe and appropriate use of restraints and seclusion.

(2) Other matters relating to the use of physical restraint or seclusion of clients necessary to ensure the safety of clients and others.

The Department may investigate complaints and inspect a facility at any time to ensure compliance with this section."

Section 2.(a) G.S. 131D-10.5 reads as rewritten:

"*§ 131D-10.5. Powers and duties of the Commission.*

In addition to other powers and duties prescribed by law, the Commission shall exercise the following powers and duties:

(1) Adopt, amend and repeal rules consistent with the laws of this State and the laws and regulations of the federal government to implement the provisions and purposes of this Article;

(2) Issue declaratory rulings as may be needed to implement the provisions and purposes of this Article;

(3) Adopt rules governing procedures to appeal Department decisions pursuant to this Article granting, denying, suspending or revoking licenses; ~~and~~

(4) Adopt criteria for waiver of licensing rules adopted pursuant to this ~~Article.~~ Article;

(5) Adopt rules on documenting the use of physical restraint in residential child-care facilities; and

(6) Adopt rules establishing personnel and training requirements related to the use of physical restraints and time-out for staff employed in residential child-care facilities."

Section 2.(b) Article 1A of Chapter 131D of the General Statutes is amended by adding the following new section to read:

"§ 131D-10.5A. Collection of data on use of restraints in residential child-care facilities.

A residential child-care facility that employs physical restraint of a child shall collect data on the use of the restraint. The data shall reflect for each incidence, the type of procedure used, the length of time employed, alternatives considered or employed, and the effectiveness of the procedure or alternative employed. The facility shall analyze the data on at least a quarterly basis to monitor effectiveness, determine trends, and take corrective action where necessary. The facility shall make the data available to the Department upon request. Nothing in this subsection abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Department under this subsection. In reviewing data requested under this subsection, the Department shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this subsection."

Section 3.(a) Article 2 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-31. Report required upon death of client.

(a) A facility shall notify the Secretary immediately upon the death of any client of the facility that occurs within seven days of physical restraint or seclusion of the client, and shall notify the Secretary within three days of the death of any client of the facility resulting from violence, accident, suicide, or homicide. The Secretary may assess a civil penalty of not less than five hundred dollars ($500.00) and not more than one thousand dollars ($1,000) against a facility that fails to notify the Secretary of a death and the circumstances surrounding the death known to the facility. Chapter 150B of the General Statutes governs the assessment of a penalty under this section. A civil penalty owed under this section may be recovered in a civil action brought by the Secretary or the Attorney General. The clear proceeds of the penalty shall be remitted to the State Treasurer for deposit in accordance with State law.

(b) Upon receipt of notification from a facility in accordance with subsection (a) of this section, the Secretary shall notify the Governor's Advocacy Council for Persons With Disabilities that a person with a disability has died. The Secretary shall provide the Council access to the information about each death reported pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department and from reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The Council shall use the information in accordance with its powers and duties under G.S. 143B-403.1 and applicable federal law and regulations.

(c) If the death of a client of a facility occurs within seven days of the use of physical restraint or seclusion, then the Secretary shall initiate immediately an investigation of the death.

(d) An inpatient psychiatric unit of a hospital licensed under Chapter 131E of the General Statutes shall comply with this section.

(e) Nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Secretary or the Council. In carrying out the requirements of this section, the Secretary and the Council shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information.

(f) The Secretary shall establish a standard reporting format for reporting deaths pursuant to this section and shall provide to facilities subject to this section a form for the facility's use in complying with this section."

Section 3.(b) Article 1 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"*§ 122C-5. Report on restraint and seclusion.*

The Secretary shall report annually on October 1 to the Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services on the following for the immediately preceding fiscal year:

(1) The level of compliance of each facility with applicable State and federal laws, rules, and regulations governing the use of restraints and seclusion. The information shall indicate areas of highest and lowest levels of compliance.

(2) The total number of facilities that reported deaths under G.S. 122C-31, the number of deaths reported by each facility, the number of deaths investigated pursuant to G.S. 122C-31, and the number found by the investigation to be related to the use of restraint or seclusion."

Section 4. G.S. 130A-385 is amended by adding the following new subsection to read:

"(f) If a death occurred in a facility licensed subject to Article 2 or Article 3 of Chapter 122C of the General Statutes, or Articles 1 or 1A of Chapter 131D of the General Statutes, and the deceased was a client or resident of the facility or a recipient of facility services at the time of death, then the Chief Medical Examiner shall forward a copy of the medical examiner's report to the Secretary of Health and Human Services within 30 days of receipt of the report from the medical examiner."

Section 5.(a) Article 1A of Chapter 131D of the General Statutes is amended by adding the following new section to read:

"*§ 131D-10.6B. Report of death.*

(a) A facility licensed under this Article shall notify the Department immediately upon the death of any resident of the facility that occurs within seven days of physical restraint of the resident, and shall notify the Department within three days of the death of any resident of the

facility resulting from violence, accident, suicide, or homicide. The Department may assess a civil penalty of not less than five hundred dollars ($500.00) and not more than one thousand dollars ($1,000) against a facility that fails to notify the Department of a death and the circumstances surrounding the death known to the facility. Chapter 150B of the General Statutes governs the assessment of a penalty under this section. A civil penalty owed under this section may be recovered in a civil action brought by the Department or the Attorney General. The clear proceeds of the penalty shall be remitted to the State Treasurer for deposit in accordance with State law.

(b) Upon receipt of notification from a facility in accordance with subsection (a) of this section, the Department shall notify the Governor's Advocacy Council for Persons With Disabilities that a person with a disability has died. The Department shall provide the Council access to the information about each death reported to the Council pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department, and from reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The Council shall use the information in accordance with its powers and duties under G.S. 143B-403.1 and applicable federal law and regulations.

(c) If the death of a resident of the facility occurs within seven days of the use of physical restraint, the Department shall initiate immediately an investigation of the death.

(d) Nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Department or the Council. In carrying out the requirements of this section, the Department and the Council shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information.

(e) The Secretary shall establish a standard reporting format for reporting deaths pursuant to this section and shall provide to facilities subject to this section a form for the facility's use in complying with this section."

Section 5.(b) G.S. 131D-10.6 is amended by adding the following new subdivision to read:

"(10) Report annually on October 1 to the Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services the level of facility compliance with applicable State law governing the use of restraint and time-out in residential child-care facilities. The report shall also include the total number of facilities that reported deaths under this section, the number of deaths reported by each facility, the number of

deaths investigated pursuant to this section, and the number found by the investigation to be related to the use of physical restraint or time-out."

Section 6.(a) Article 3 of Chapter 131D of the General Statutes is amended by adding the following new section to read:

"*§ 131D-34.1. Report of death of resident.*

(a) An adult care home shall notify the Department of Health and Human Services immediately upon the death of any resident that occurs in the adult care home or that occurs within 24 hours of the resident's transfer to a hospital if the death occurred within seven days of the adult care home's use of physical restraint or physical hold of the resident, and shall notify the Department of Health and Human Services within three days of the death of any resident of the adult care home resulting from violence, accident, suicide, or homicide. The Department may assess a civil penalty of not less than five hundred dollars ($500.00) and not more than one thousand dollars ($1,000) against a facility that fails to notify the Department of a death and the circumstances surrounding the death known to the facility. Chapter 150B of the General Statutes governs the assessment of a penalty under this section. A civil penalty owed under this section may be recovered in a civil action brought by the Department or the Attorney General. The clear proceeds of the penalty shall be remitted to the State Treasurer for deposit in accordance with State law.

(b) Upon receipt of notification from an adult care home in accordance with subsection (a) of this section, the Department of Health and Human Services shall notify the Governor's Advocacy Council for Persons With Disabilities that a person with a disability has died. The Department shall provide the Council access to the information about each death reported pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department and from reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The Council shall use the information in accordance with its powers and duties under G.S. 143B-403.1 and applicable federal law and regulations.

(c) If the death of a resident of the adult care home occurs within seven days of the adult care home's use of physical restraint or physical hold, the Department shall initiate immediately an investigation of the death.

(d) Nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Department or the Council. In carrying out the requirements of this section, the Department and the Council shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information.

(e) The Secretary shall establish a standard reporting format for reporting deaths pursuant to this section and shall provide to facilities subject to this section a form for the facility's use in complying with this section."

Section 6.(b) Article 5 of Chapter 131D of the General Statutes is amended by adding the following new section to read:

"*§ 131D-42. Report on use of restraint.*

The Department shall report annually on October 1 to the Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services the following for the immediately preceding fiscal year:

(1) The level of compliance of each adult care home with applicable State law and rules governing the use of physical restraint and physical hold of residents. The information shall indicate areas of highest and lowest levels of compliance.

(2) The total number of adult care homes that reported deaths under G.S. 131D-34.1, the number of deaths reported by each facility, the number of deaths investigated pursuant to G.S. 131D-34.1, and the number found by the investigation to be related to the adult care home's use of physical restraint or physical hold."

Section 7. This act becomes effective January 1, 2001.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

Became law upon approval of the Governor at 8:49 a.m. on the 14th day of July, 2000.

H.B. 1564 **SESSION LAW 2000-130**

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE LAWS REGARDING THE PROCUREMENT OF INFORMATION TECHNOLOGY BY STATE AGENCIES AND INSTITUTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-472.51 reads as rewritten:

"*§ 143B-472.51. Powers and duties of Office of Information Technology Services.*

(a) The Office of Information Technology Services has the following powers and duties:

(1) Procure all information technology for State agencies, ~~except~~ as provided in G.S. 143B-472.54. The University of North Carolina and its constituent ~~institutions.~~ institutions, and the Judicial Department may elect to participate in information technology procurement under this Article or may obtain information technology in compliance with Department of Administration requirements.

(2) Submit for approval of the Information Resources Management Commission all rates and fees for common, shared State government-wide technology services provided by the Office.

(3) Submit for approval of the Information Resources Management Commission recommended State government-wide, enterprise-level policies for information technology.

(4) Develop standards, procedures, and processes to implement policies approved by the Information Resources Management Commission.

(5) Assure that State agencies implement and manage information technology portfolio-based management of State information technology resources, in accordance with the direction set by the State Chief Information Officer.

(6) Assure that State agencies implement and manage information technology enterprise management effort of State government, in accordance with the direction set by the State Chief Information Officer.

(7) Provide recommendations to the Information Resources Management Commission for its biennial technology strategy and to develop State government-wide technology initiatives to be approved by the Information Resources Management Commission.

(8) Develop a project management, quality assurance, and architectural review process that adheres to the Information Resources Management Commission's certification program and portfolio-based management initiative.

(9) Establish and utilize the Information Technology Management Advisory Council to consist of representatives from other State agencies to advise the Office on information technology business management and technology matters.

(b) ~~Other State agencies and~~ Notwithstanding any other provision of law, local governmental entities may use the information technology programs, services, or contracts offered by the ~~Office~~ Office, including information technology procurement, in accordance with the ~~policies~~ statutes, policies, and rules ~~adopted by the Information Resources Management Commission,~~ of the Office. For purposes of this subsection, 'local governmental entities' includes local school administrative units, as defined in G.S. 115C-5, and community colleges. Local governmental entities are not required to comply with otherwise applicable competitive bidding requirements when using contracts established by the Office. Any other State entities, including The University of North Carolina and its constituent institutions, may also use the information technology programs, services, or contracts offered by the Office, including information technology procurement, in accordance with the statutes, policies, and rules of the Office."

Section 2. G.S. 143B-472.54 reads as rewritten:

"*§ 143B-472.54. Procurement of information technology.*

Notwithstanding any other provision of law, the Office shall procure all information technology for State ~~agencies except~~ agencies. For purposes of this section, agency means any department, institution, commission, committee, board, division, bureau, office, officer, or official of the State, unless specifically exempted in this Article. The University of North Carolina and its constituent ~~institutions.~~ institutions, and the Judicial Department may elect to participate in information technology procurement under this Article or may obtain information technology in compliance with Department of Administration requirements. The Office shall integrate technological review, cost analysis, and procurement for all information technology needs of those State agencies in order to make procurement and implementation of technology more responsive, efficient, and cost-effective. Responses to solicitations and all information and documentation relative to the development of a contractual document shall be deemed confidential in nature and shall be made a matter of public record after the contract is awarded. Award information determined by the State Chief Information Officer to be confidential due to the nature of the purchase, such as security or privacy-related information, shall remain confidential."

Section 3. G.S. 143B-472.58(b) reads as rewritten:

"(b) Reporting. -- Every State agency ~~required by this Part to use~~ that makes a direct purchase of information technology using the services of the Office ~~in the procurement of information technology which purchases information technology directly shall report to the Office the information required by G.S. 143-48(b) and the Office~~ shall report directly to the Department of Administration ~~in accordance with~~ all information required by G.S. 143-48(b)."

Section 4. G.S. 143B-472.63(a) reads as rewritten:

"§ *143B-472.63. Board of ~~Award~~ Awards review.*

(a) When the dollar value of a contract for the procurement of information technology equipment, materials, and supplies exceeds the benchmark established by the Secretary of Commerce, the contract shall be reviewed by the Board of Awards pursuant to G.S. 143-52.1 prior to the contract being awarded."

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Became law upon approval of the Governor at 8:50 a.m. on the 14th day of July, 2000.

H.B. 1571 **SESSION LAW 2000-131**

AN ACT PERTAINING TO TIME REQUIREMENTS FOR THE INVESTIGATION OF COMPLAINTS UNDER THE PROTECTION OF THE ABUSED, NEGLECTED, OR EXPLOITED DISABLED ADULT ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108A-103(d) reads as rewritten:

"*§ 108A-103. Duty of director upon receiving report.*

. . .

(d) The director shall initiate the evaluation described in subsection (a) of this section as follows:

(1) Immediately upon receipt of the complaint if the complaint alleges a ~~life-threatening situation.~~ danger of death in an emergency as defined in G.S. 108A-101(g).

(2) Within 24 hours if the complaint alleges ~~abuse of a resident~~ danger of irreparable harm in an emergency as defined by G.S. ~~131D-20(1).~~ 108A-101(g).

(3) Within ~~48 hours if the complaint alleges neglect of a resident as defined by G.S. 131D-20(8).~~ 72 hours if the complaint does not allege danger of death or irreparable harm in an emergency as defined by G.S. 108A-101(g).

~~(4) Within two weeks in all other situations.~~

~~The investigation shall be completed within 30 days.~~ The evaluation shall be completed within 30 days for allegations of abuse or neglect and within 45 days for allegations of exploitation."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 2000.

Became law upon approval of the Governor at 8:50 a.m. on the 14th day of July, 2000.

H.B. 1518 **SESSION LAW 2000-132**

AN ACT TO CLARIFY THAT GROUP CREDIT ACCIDENT AND HEALTH INSURANCE MAY BE ISSUED TO A CREDITOR TO INSURE DEBTORS OF THE CREDITOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-51-80(b) reads as rewritten:

"(b) No policy or contract of group accident, group health or group accident and health insurance shall be delivered or issued for delivery in this State unless the group of persons thereby insured conforms to the requirements of the following subdivisions:

(1) Under a policy issued to an employer, principal, or to the trustee of a fund established by an employer or two or more employers in the same industry or kind of business, or by a principal or two or more principals in the same industry or kind of business, which employer, principal, or trustee shall be deemed the policyholder, covering, except as hereinafter provided, only employees, or agents, of any class or classes thereof determined by conditions pertaining to employment, or agency, for amounts of insurance based upon some plan which will preclude individual selection. The premium may be paid by the employer, by the employer and the employees jointly, or by the employee;

and where the relationship of principal and agent exists, the premium may be paid by the principal, by the principal and agents, jointly, or by the agents. If the premium is paid by the employer and the employees jointly, or by the principal and agents jointly, or by the employees, or by the agents, the group shall be structured on an actuarially sound basis.

(1a) Under a policy issued to an association or to a trust or to the trustee or trustees of a fund established, created, or maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum of 500 persons and shall have been organized and maintained in good faith for purposes other than that of obtaining insurance; shall have been in active existence for at least five years; and shall have a constitution and bylaws that provide that (i) the association or associations hold regular meetings not less than annually to further purposes of the members; (ii) except for credit unions, the association or associations collect dues or solicit contributions from members; and (iii) the members, other than associate members, have voting privileges and representation on the governing board and committees. The policy is subject to the following requirements:

a. The policy may insure members of the association or associations, employees of the association or associations, or employees of members, or one or more of the preceding or all of any class or classes for the benefit of persons other than the employee's employer.

b. The premium for the policy shall be paid from funds contributed by the association or associations, or by employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association, associations, or employer members.

c. Repealed by Session Laws 1997-259, s. 8.

(1b) Under a policy issued to a creditor as defined in G.S. 58-57-5 who shall be deemed the policyholder, to insure debtors as defined in G.S. 58-57-5 of the creditor to provide indemnity for payments becoming due on a specific loan or other credit transaction as defined in G.S. 58-51-100, with or without insurance against death by accident, subject to the following requirements:

a. The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in installments, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term "debtors" shall include the debtors of one or more subsidiary corporations, and the debtors of one or

more affiliated corporations, proprietors or partnerships if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise.

b. The premium for the policy shall be paid from the creditor's funds, from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors or identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless the group is structured on an actuarially sound basis. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

c. The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least 100 persons yearly, or may reasonably be expected to receive at least 100 new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five percent (75%) of the new entrants become insured.

d. Premiums for this coverage shall be actuarially equivalent to the rates authorized under Article 57 of Chapter 58 of the General Statutes for credit accident and health insurance.

(2), (3) Repealed by Session Laws 1997-259, s. 8."

Section 2. This act is effective on and after July 1, 2000.

In the General Assembly read three times and ratified this the 7th day of July, 2000.

H.B. 1607 **SESSION LAW 2000-133**

AN ACT TO MODERNIZE BAIL BOND FORFEITURE PROCEEDINGS, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S BAIL BOND LAWS COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-531 reads as rewritten:

"*§ 15A-531. Definitions.*

As used in this Article the following definitions apply unless the context clearly requires otherwise:

~~(1) Bail Bond. -- An undertaking by the principal to appear in court as required upon penalty of forfeiting bail to the State of North Carolina in a stated amount. Bail bonds include an unsecured appearance bond, an appearance bond secured by a cash deposit of the full amount of the bond, an appearance bond secured by a mortgage pursuant to G.S. 58-74-5, and an appearance bond secured by at least one solvent surety. A bail bond for which the surety is a surety bondsman, as defined in G.S. 58-71-1, acting on behalf of an insurer shall be considered the same as a cash deposit for all purposes in this Article. A bail bond signed by a professional bondsman who is not a surety bondsman, as defined in G.S. 58-71-1, shall not be considered the same as a cash deposit under this Article. Cash bonds set in child support contempt proceedings shall not be satisfied in any manner other than the deposit of cash.~~

~~(2) Obligor. -- A principal or a surety on a bail bond.~~

~~(3) Principal. -- A defendant or material witness obligated to appear in court as required upon penalty of forfeiting bail under a bail bond.~~

~~(4) Surety. -- One who, with the principal, is liable for the amount of the bail bond upon forfeiture of bail.~~

(1) 'Accommodation bondsman' means a natural person who has reached the age of 18 years and is a bona fide resident of this State and who, aside from love and affection and release of the person concerned, receives no consideration for action as surety and who endorses the bail bond after providing satisfactory evidences of ownership, value, and marketability of real or personal property to the extent necessary to reasonably satisfy the official taking bond that such real or personal property will in all respects be sufficient to assure that the full principal sum of the bond will be realized in the event of breach of the conditions thereof. 'Consideration' as used in this subdivision does not include the legal rights of a surety against a defendant by reason of breach of the conditions of a bail bond nor does it include collateral furnished to and securing the surety so long as the value of the surety's rights in the collateral do not exceed the defendant's liability to the surety by reason of a breach in the conditions of said bail bond.

(1a) 'Address of record' means:

a. For a defendant or an accommodation bondsman, the address entered on the bail bond under G.S. 15A-544.2, or any later address filed by that person with the clerk of superior court.

b. For an insurance company, the address of the insurance company as it appears on the power of

appointment of the company's bail agent registered with the clerk of superior court under G.S. 58-71-140.

c. For a bail agent, the address shown on the bail agent's license from the Department of Insurance registered with the clerk of superior court under G.S. 58-71-140.

d. For a professional bondsman, the address shown on that bondsman's license from the Department of Insurance, as registered with the clerk of superior court under G.S. 58-71-140.

(1b) 'Bail agent' means any person who is licensed by the Commissioner as a surety bondsman under Article 71 of Chapter 58 of the General Statutes, is appointed by an insurance company by power of attorney to execute or countersign bail bonds for the insurance company in connection with judicial proceedings, and receives or is promised consideration for doing so.

(1c) 'Bail bond' means an undertaking by the defendant to appear in court as required upon penalty of forfeiting bail to the State in a stated amount. Bail bonds include an unsecured appearance bond, an appearance bond secured by a cash deposit of the full amount of the bond, an appearance bond secured by a mortgage under G.S. 58-74-5, and an appearance bond secured by at least one solvent surety. A bail bond for which the surety is a bail agent acting on behalf of an insurance company is considered the same as a cash deposit for all purposes in this Article. A bail bond signed by a professional bondsman who is not a bail agent is not considered the same as a cash deposit under this Article. Cash bonds set in child support contempt proceedings shall not be satisfied in any manner other than the deposit of cash.

(1d) 'Defendant' means a person obligated to appear in court as required upon penalty of forfeiting bail under a bail bond.

(1e) 'Insurance company' means any domestic, foreign, or alien surety company which has qualified under Chapter 58 of the General Statutes generally to transact surety business and specifically to transact bail bond business in this State.

(1f) 'Professional bondsman' means any person who is approved and licensed by the Commissioner of Insurance under Article 71 of Chapter 58 of the General Statutes and who pledges cash or approved securities with the Commissioner as security for bail bonds written in connection with a judicial proceeding and receives or is promised money or other things of value therefor.

(4) 'Surety' means:

a. The insurance company, when a bail bond is executed by a bail agent on behalf of an insurance company.

b. The professional bondsman, when a bail bond is executed by a professional bondsman or by a runner on behalf of a professional bondsman.

c. The accommodation bondsman, when a bail bond is executed by an accommodation bondsman."

Section 2. G.S. 15A-540 reads as rewritten:

"*§ 15A-540. Surrender of a ~~principal~~ defendant by a surety; setting new conditions of release.*

~~(a) A surety may surrender his principal to the sheriff of the county in which the principal is bonded to appear or to the sheriff where the defendant was bonded. A surety may arrest his principal for the purpose of returning him to the sheriff. Upon surrender of the principal the sheriff must provide a receipt to the surety, a copy of which must be filed with the clerk. Upon application by the surety after the surrender of the principal, before the forfeiture of bail under G.S. 15A-544(b), the clerk must exonerate him from his bond.~~

~~(b) A principal surrendered by his surety is entitled to an immediate hearing on whether he is again entitled to release and, if so, upon what conditions.~~

(a) Going Off the Bond Before Breach. -- Before there has been a breach of the conditions of a bail bond, the surety may surrender the defendant as provided in G.S. 58-71-20. Upon application by the surety after such surrender, the clerk must exonerate the surety from the bond.

(b) Surrender After Breach of Condition. -- After there has been a breach of the conditions of a bail bond, a surety may surrender the defendant as provided in this subsection. A surety may arrest the defendant for the purpose of returning the defendant to the sheriff. After arresting a defendant, the surety may surrender the defendant to the sheriff of the county in which the defendant is bonded to appear or to the sheriff where the defendant was bonded. Alternatively, a surety may surrender a defendant who is already in the custody of any sheriff by appearing in person and informing the sheriff that the surety wishes to surrender the defendant. Before surrendering a defendant to a sheriff, the surety must provide the sheriff with a certified copy of the bail bond. Upon surrender of the defendant, the sheriff shall provide a receipt to the surety.

(c) New Conditions of Pretrial Release. -- When a defendant is surrendered by a surety under subsection (b) of this section, the sheriff shall without unnecessary delay take the defendant before a judicial official, along with a copy of the undertaking received from the surety and a copy of the receipt provided to the surety. The judicial official shall then determine whether the defendant is again entitled to release and, if so, upon what conditions. The judicial official determining conditions of pretrial release under this subsection shall impose any conditions set by the court in any order for arrest issued for the defendant's failure to appear. If no conditions have been set, the judicial official shall require the execution of a secured appearance bond in an amount at least double the amount of the

previous bond, and shall impose such restrictions on the travel, associations, conduct, or place of abode of the defendant as will assure that the defendant will not again fail to appear. The magistrate shall also indicate on the release order that the defendant was surrendered after failing to appear as required under a prior release order."

Section 3. G.S. 15A-543(a) reads as rewritten:

"(a) In addition to forfeiture imposed under ~~G.S. 15A-544,~~ Part 2 of this Article, any person released pursuant to this Article who willfully fails to appear before any court or judicial official as required is subject to the criminal penalties set out in this section."

Section 4. G.S. 15A-544 is repealed.

Section 5. The heading for Article 26 of Chapter 15A of the General Statutes reads as rewritten:

"ARTICLE 26.

Bail.

Part 1. General Provisions."

Section 6. Article 26 of Chapter 15A of the General Statutes is amended by adding a new Part 2 to read:

"Part 2. Bail Bond Forfeiture.

"§ *15A-544.1. Forfeiture jurisdiction.*

By executing a bail bond the defendant and each surety submit to the jurisdiction of the court and irrevocably consent to be bound by any notice given in compliance with this Part. The liability of the defendant and each surety may be enforced as provided in this Part, without the necessity of an independent action.

"§ *15A-544.2. Identifying information on bond.*

(a) The following information shall be entered on each bail bond executed under Part 1 of this Article:

(1) The name and mailing address of the defendant.

(2) The name and mailing address of any accommodation bondsman executing the bond as surety.

(3) The name and license number of any professional bondsman executing the bond as surety and the name and license number of the runner executing the bail bond on behalf of the professional bondsman.

(4) The name of any insurance company executing the bond as surety, and the name, license number, and power of appointment number of the bail agent executing the bail bond on behalf of the insurance company.

(b) If a defendant is released upon execution of a bail bond that does not contain all the information required by subsection (a) of this section, the defendant's order of pretrial release may be revoked as provided in G.S. 15A-534(f).

"§ *15A-544.3. Entry of forfeiture.*

(a) If a defendant who was released under Part 1 of this Article upon execution of a bail bond fails on any occasion to appear before the court as required, the court shall enter a forfeiture for the amount of that bail bond in favor of the State against the defendant and against each surety on the bail bond.

(b) The forfeiture shall contain the following information:

(1) The name and address of record of the defendant.

(2) The file number of each case in which the defendant's appearance is secured by the bail bond.

(3) The amount of the bail bond.

(4) The date on which the bail bond was executed.

(5) The name and address of record of each surety on the bail bond.

(6) The name, address of record, license number, and power of appointment number of any bail agent who executed the bail bond on behalf of an insurance company.

(7) The date on which the forfeiture is entered.

(8) The date on which the forfeiture will become a final judgment under G.S. 15A-544.6 if not set aside before that date.

(9) The following notice: 'TO THE DEFENDANT AND EACH SURETY NAMED ABOVE: The defendant named above has failed to appear as required before the court in the case identified above. A forfeiture for the amount of the bail bond shown above was entered in favor of the State against the defendant and each surety named above on the date of forfeiture shown above. This forfeiture will be set aside if, on or before the final judgment date shown above, satisfactory evidence is presented to the court that one of the following events has occurred: (i) the defendant's failure to appear has been stricken by the court in which the defendant was required to appear and any order for arrest that was issued for that failure to appear is recalled, (ii) all charges for which the defendant was bonded to appear have been finally disposed by the court other than by the State's taking a voluntary dismissal with leave, (iii) the defendant has been surrendered by a surety or bail agent to a sheriff of this State as provided by law, (iv) the defendant has been served with an Order for Arrest for the Failure to Appear on the criminal charge in the case in question, (v) the defendant died before or within the period between the forfeiture and the final judgment as demonstrated by the presentation of a death certificate, or (vi) the defendant was incarcerated in a unit of the Department of Correction and is serving a sentence or in a unit of the Federal Bureau of Prisons located within the borders of the State at the time of the failure to appear. The forfeiture will not be set aside for any other reason. If this forfeiture is not set aside on or before the final judgment date shown above, and if no motion to set it aside is pending on that date, the forfeiture will become a final judgment on that date. The final judgment will be enforceable by execution against the defendant and any accommodation bondsman and professional bondsman on the bond. The final judgment

will also be reported to the Department of Insurance. Further, no surety will be allowed to execute any bail bond in the above county until the final judgment is satisfied in full.'

"§ *15A-544.4. Notice of forfeiture.*

(a) The court shall give notice of the entry of forfeiture by mailing a copy of the forfeiture to the defendant and to each surety whose name appears on the bail bond.

(b) The notice shall be sent by first-class mail to the defendant and to each surety named on the bond at the surety's address of record.

(c) If a bail agent on behalf of an insurance company executed the bond, the court shall also provide a copy of the forfeiture to the bail agent, but failure to provide notice to the bail agent shall not affect the validity of any notice given to the insurance company.

(d) Notice given under this section is effective when the notice is mailed.

(e) Notice under this section shall be mailed not later than the thirtieth day after the date on which the forfeiture is entered. If notice under this section is not given within the prescribed time, the forfeiture shall not become a final judgment and shall not be enforced or reported to the Department of Insurance.

"§ *15A-544.5. Setting aside forfeiture.*

(a) Relief Exclusive. -- There shall be no relief from a forfeiture except as provided in this section. The reasons for relief are those specified in subsection (b) of this section. The procedures for obtaining relief are those specified in subsections (c) and (d) of this section. Subsections (f), (g), (h), and (i) of this section apply regardless of the reason for relief given or the procedure followed.

(b) Reasons for Set Aside. -- A forfeiture shall be set aside for any one of the following reasons, and none other:

(1) The defendant's failure to appear has been set aside by the court and any order for arrest issued for that failure to appear has been recalled, as evidenced by a copy of an official court record, including an electronic record.

(2) All charges for which the defendant was bonded to appear have been finally disposed by the court other than by the State's taking dismissal with leave, as evidenced by a copy of an official court record, including an electronic record.

(3) The defendant has been surrendered by a surety on the bail bond as provided by G.S. 15A-540, as evidenced by the sheriff's receipt provided for in that section.

(4) The defendant has been served with an Order for Arrest for the Failure to Appear on the criminal charge in the case in question.

(5) The defendant died before or within the period between the forfeiture and the final judgment as demonstrated by the presentation of a death certificate.

(6) The defendant was incarcerated in a unit of the Department of Correction and is serving a sentence or in a unit of the

Federal Bureau of Prisons located within the borders of the State at the time of the failure to appear.

(c) Procedure When Failure to Appear Is Stricken. -- If the court before which a defendant's appearance was secured by a bail bond enters an order striking the defendant's failure to appear and recalling any order for arrest issued for that failure to appear, that court may simultaneously enter an order setting aside any forfeiture of that bail bond. When an order setting aside a forfeiture is entered, the defendant's further appearances shall continue to be secured by that bail bond unless the court orders otherwise.

(d) Motion Procedure. -- If a forfeiture is not set aside under subsection (c) of this section, the only procedure for setting it aside is as follows:

(1) At any time before the expiration of 150 days after the date on which notice was given under G.S. 15A-544.4, the defendant or any surety on a bail bond may make a written motion that the forfeiture be set aside, stating the reason and attaching the evidence specified in subsection (a) of this section.

(2) The motion is filed in the office of the clerk of superior court of the county in which the forfeiture was entered, and a copy is served, under G.S. 1A-1, Rule 5, on the district attorney for that county and the county board of education.

(3) Either the district attorney or the county board of education may object to the motion by filing a written objection in the office of the clerk and serving a copy on the moving party.

(4) If neither the district attorney nor the board of education has filed a written objection to the motion by the tenth day after the motion is served, the clerk shall enter an order setting aside the forfeiture.

(5) If either the district attorney or the county board of education files a written objection to the motion, then not more than 30 days after the objection is filed a hearing on the motion and objection shall be held in the county, in the trial division in which the defendant was bonded to appear.

(6) If at the hearing the court allows the motion, the court shall enter an order setting aside the forfeiture.

(7) If at the hearing the court does not enter an order setting aside the forfeiture, the forfeiture shall become a final judgment of forfeiture on the later of:

a. The date of the hearing.

b. The date of final judgment specified in G.S. 15A-544.6.

(e) Only One Motion Per Forfeiture. -- No more than one motion to set aside a specific forfeiture may be considered by the court.

(f) No More Than Two Forfeitures May Be Set Aside Per Case. -- In any case in which the State proves that the surety or the bail agent had notice or actual knowledge, before executing a bail bond, that the defendant had already failed to appear on two or more prior occasions, no forfeiture of that bond may be set aside for any reason.

(g) No Final Judgment After Forfeiture Is Set Aside. -- If a forfeiture is set aside under this section, the forfeiture shall not thereafter ever become a final judgment of forfeiture or be enforced or reported to the Department of Insurance.

(h) Appeal. -- An order on a motion to set aside a forfeiture is a final order or judgment of the trial court for purposes of appeal. Appeal is the same as provided for appeals in civil actions. When notice of appeal is properly filed, the court may stay the effectiveness of the order on any conditions the court considers appropriate.

"*§ 15A-544.6. Final judgment of forfeiture.*

A forfeiture entered under G.S. 15A-544.3 becomes a final judgment of forfeiture without further action by the court and may be enforced under G.S. 15A-544.7, on the one hundred fiftieth day after notice is given under G.S. 15A-544.4, if:

(1) No order setting aside the forfeiture under G.S. 15A-544.5 is entered on or before that date; and

(2) No motion to set aside the forfeiture is pending on that date.

"*§ 15A-544.7. Docketing and enforcement of final judgment of forfeiture.*

(a) Final Judgment Docketed As Civil Judgment. -- When a forfeiture has become a final judgment under this Part, the clerk of superior court, under G.S. 1-234, shall docket the judgment as a civil judgment against the defendant and against each surety named in the judgment.

(b) Judgment Lien. -- When a final judgment of forfeiture is docketed, the judgment shall become a lien on the real property of the defendant and of each surety named in the judgment, as provided in G.S. 1-234.

(c) Execution; Copy to Commissioner of Insurance. -- After docketing a final judgment under this section, the clerk shall:

(1) Issue execution on the judgment against the defendant and against each accommodation bondsman and professional bondsman named in the judgment and shall remit the clear proceeds to the county finance officer as provided in G.S. 115C-452.

(2) If an insurance company or professional bondsman is named in the judgment, send the Commissioner of Insurance a copy of the judgment, showing the date on which the judgment was docketed.

(d) Sureties May Not Execute Bonds in County. -- After a final judgment is docketed as provided in this section, no surety named in the judgment shall become a surety on any bail bond in the county in which the judgment is docketed until the judgment is satisfied in full.

"*§ 15A-544.8. Relief from final judgment of forfeiture.*

(a) Relief Exclusive. -- There is no relief from a final judgment of forfeiture except as provided in this section.

(b) Reasons. -- The court may grant the defendant or any surety named in the judgment relief from the judgment, for the following reasons, and none other:

(1) The person seeking relief was not given notice as provided in G.S. 15A-544.4.

(2) Other extraordinary circumstances exist that the court, in its discretion, determines should entitle that person to relief.

(c) Procedure. -- The procedure for obtaining relief from a final judgment under this section is as follows:

(1) At any time before the expiration of three years after the date on which a judgment of forfeiture became final, the defendant or any surety named in the judgment may make a written motion for relief under this section, stating the reasons and setting forth the evidence in support of each reason.

(2) The motion is filed in the office of the clerk of superior court of the county in which the final judgment was entered, and a copy shall be served, under G.S. 1A-1, Rule 5, on the district attorney for that county and the county board of education.

(3) A hearing on the motion shall be scheduled within a reasonable time in the trial division in which the defendant was bonded to appear.

(4) At the hearing the court may grant the party any relief from the judgment that the court considers appropriate, including the refund of all or a part of any money paid to satisfy the judgment.

(d) Only One Motion. -- No more than one motion by any party for relief under this section may be considered by the court.

(e) Finality of Judgment as to Other Parties Not Affected. -- The finality of a final judgment of forfeiture shall not be affected, as to any party to the judgment, by the filing of a motion by, or the granting of relief to, any other party.

(f) Appeal. -- An order on a motion for relief from a final judgment of forfeiture is a final order or judgment of the trial court for purposes of appeal. Appeal is the same as provided for appeals in civil actions. When notice of appeal is properly filed, the court may stay the effectiveness of the order on any conditions it considers appropriate."

Section 7. G.S. 58-71-25 reads as rewritten:

"*§ 58-71-25. Procedure for ~~surrender; exoneration of obligors; refund of deposit.~~ surrender.*

~~The person desiring to make a surrender of the defendant shall procure a certified copy of the undertakings and deliver them together with the defendant to the official in whose custody the defendant was at the time bail was taken, or to the official into whose custody he would have been given had he been committed, who shall detain the defendant in his custody thereon, as upon a commitment, and by a certificate in writing acknowledge the surrender.~~

~~Upon the presentation of certified copy of the undertakings and the certificate of the official, the court before which the defendant has been held to answer, or the court in which the preliminary~~

~~examination, warrant, indictment, information or appeal as the case may be, is pending, shall upon notice of three days given by the person making the surrender to the prosecuting officer of the court having jurisdiction of the offense, together with a copy of the undertakings and certificate, order that the obligors be exonerated from liability of their undertakings, and, if money or bonds have been deposited as bail, that such money or bonds be refunded.~~

After there has been a breach of the undertaking in a bail bond, the surety may surrender the defendant as provided in G.S. 15A-540."

Section 8. G.S. 24-5(a1) reads as rewritten:

"(a1) In an action on a penal bond, the amount of the judgment, except the costs, shall bear interest at the legal rate from the date of ~~entry~~ docketing of judgment until the judgment is satisfied."

Section 9. This act becomes effective January 1, 2001, and applies to all bail bonds executed and all forfeiture proceedings initiated on and after that date.

In the General Assembly read three times and ratified this the 7th day of July, 2000.

Became law upon approval of the Governor at 8:52 a.m. on the 14th day of July, 2000.

Became law upon approval of the Governor at 8:51 a.m. on the 14th day of July, 2000.

H.B. 1638 **SESSION LAW 2000-134**

AN ACT TO IMPROVE AMBIENT AIR QUALITY, TO PROVIDE FOR THE USE OF ON-BOARD DIAGNOSTIC EQUIPMENT IN THE MOTOR VEHICLE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM, AND TO EXCLUDE FEDERAL CONGESTION MITIGATION AND AIR QUALITY FUNDS FROM THE DISTRIBUTION FORMULA FOR FUNDS EXPENDED ON TRANSPORTATION, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.107(a)(6) reads as rewritten:

"(6) To adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; ~~to require that motor vehicle emissions be monitored while the vehicle is in operation by means of onboard diagnostic equipment (OBD) installed by the vehicle manufacturer;~~ to require manufacturers of motor vehicles to furnish to the Equipment and Tool Institute and, upon request and at a reasonable charge, to any person who maintains or repairs a motor vehicle, all information necessary to fully make use of the ~~onboard~~ on-board diagnostic equipment and the data compiled by that equipment; to certify to the Commissioner of Motor

Vehicles that ambient air quality will be improved by the implementation of a motor vehicle emissions inspection and maintenance program in a county. The Commission shall implement this subdivision as provided in G.S. 143-215.107A."

Section 2. G.S. 143-215.107A(b) is repealed.

Section 3. G.S. 143-215.107A(d) reads as rewritten:

"(d) Additional Counties. -- The Commission may require that motor vehicle emissions inspections be performed in counties in addition to those set out in subsection (c) of this section. In determining whether to require that motor vehicle emissions inspections be performed in a county, the Commission may consider the population of, and distribution of population in, the county; the projected change in population of, and distribution of population in, the county; the number of vehicles registered in the county; the projected change in the number of vehicles registered in the county; vehicle miles traveled in the county; the projected change in vehicle miles traveled in the county; current and projected commuting patterns in the county; and the current and projected impact of these factors on attainment of air quality standards in the county and in areas outside the county. The Commission may not require that motor vehicle emissions ~~testing~~ inspections be performed in any county with a population of less than 40,000 based on the most recent population estimates prepared by the State Planning Officer. The Commission may not require that motor vehicle emissions ~~testing~~ inspections be performed in any county in which the number of vehicle miles traveled per day is less than 900,000, based on the most recent estimates prepared by the Department of Transportation. In order to disapprove a rule that requires that motor vehicle emissions inspections be performed in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b) must amend subsection (c) of this section to add one or more other counties in which the total population and vehicle miles traveled per day equal or exceed the total population and vehicle miles traveled in the county or counties listed in the rule that the bill would disapprove."

Section 4. Section 3.2 of S.L. 1999-328 reads as rewritten:

"Section 3.2. ~~The Environmental Management Commission shall adopt rules to implement G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. These rules shall become effective on 1 July 2002.~~ The Environmental Management Commission shall not require that motor vehicle emissions inspections be performed in any county pursuant to G.S. 143-215.107A(d), as enacted by Section 3.1 of this act, prior to 1 July 2006. The Environmental Management Commission shall not require motor vehicle emissions inspections for diesel powered vehicles prior to 1 July 2001."

Section 4.1. Sections 3.3 through 3.8 of S.L. 1999-328 are amended by deleting "G.S. 143-215.7A(c)" and substituting "G.S. 143-215.107A(c)" in the introductory language of each section.

Section 5. Section 3.9 of S.L. 1999-328 is repealed.

Section 6. Effective 1 July 2000, G.S. 20-128 reads as rewritten:

"*§ 20-128. ~~Prevention of noise, smoke, etc.; muffler cut-outs regulated.~~ Exhaust system and emissions control devices.*

(a) No person shall drive a motor vehicle on a highway unless such motor vehicle is equipped with a muffler, or other exhaust system of the type installed at the time of manufacture, in good working order and in constant operation to prevent excessive or unusual noise, annoying smoke and smoke screens.

(b) It shall be unlawful to use a 'muffler cut-out' on any motor vehicle upon a highway.

(c) No motor vehicle registered in this State ~~which~~ that was manufactured after model year 1967 shall be operated in this State unless it is equipped with ~~such emission control~~ emissions control devices ~~to reduce air pollution as~~ that were installed on the vehicle at the time ~~of manufacture, provided the foregoing requirement~~ the vehicle was manufactured and these devices are properly connected.

(d) The requirements of subsection (c) of this section shall not apply ~~where such~~ if the emissions control devices have been removed for the purpose of converting the motor vehicle to operate on natural or liquefied petroleum gas or other modifications have been made in order to reduce air ~~pollution, further provided that such modifications shall have first been~~ pollution and these modifications are approved by the Department of Environment and Natural Resources."

Section 7. Effective 1 July 2000, G.S. 20-183.2(b) reads as rewritten:

"(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.
(2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.
(3) It is a 1975 or later model.
(4) Repealed by Session Laws 1999-328, s. 3.11.
(5) It meets any of the following descriptions:
    a. It is required to be registered in an emissions county.
    b. It is part of a fleet that is operated primarily in an emissions county.
    c. It is offered for rent in an emissions county.
    d. It is a used vehicle offered for sale by a dealer in an emissions county.
    e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.

f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.

(6) It is not licensed at the farmer rate under G.S. 20-88(b)."

Section 7.1. Effective 1 July 2002, G.S. 20-183.2(b) reads as rewritten:

"(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.

(3) It is a 1975 or later model.

(4) Repealed by Session Laws 1999-328, s. 3.11.

(5) It meets any of the following descriptions:

a. It is required to be registered in an emissions county.

b. It is part of a fleet that is operated primarily in an emissions county.

c. It is offered for rent in an emissions county.

d. It is a used vehicle offered for sale by a dealer in an emissions county.

e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.

f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.

(6) It is not licensed at the farmer rate under G.S. 20-88(b).

(7) It is not a new motor vehicle, as defined in G.S. 20-286(10)a. and has been a used motor vehicle, as defined in G.S. 20-286(10)b., for 12 months or more. However, a motor vehicle that has been leased or rented, or offered for lease or rent, is subject to an emissions inspection when it either:

a. Has been leased or rented, or offered for lease or rent, for 12 months or more.

b. Is sold to a consumer-purchaser."

Section 8. Effective 1 July 2002, G.S. 20-183.3 reads as rewritten:

"*§ 20-183.3. Scope of safety inspection and emissions inspection.*

(a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the following equipment to determine if the vehicle has the equipment required by Part 9 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

(1) Brakes, as required by G.S. 20-124.

(2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.

(3) Horn, as required by G.S. 20-125(a).
(4) Steering mechanism, as required by G.S. 20-123.1.
(5) Windows and windshield wipers, as required by G.S. 20-127. To determine if a vehicle window meets the window tinting restrictions, a safety inspection mechanic must first determine, based on use of an automotive film check card or knowledge of window tinting techniques, if after-factory tint has been applied to the window. If after-factory tint has been applied, the mechanic must use a light meter approved by the Commissioner to determine if the window meets the window tinting restrictions.
(6) Directional signals, as required by G.S. 20-125.1.
(7) Tires, as required by G.S. 20-122.1.
(8) Mirrors, as required by G.S. 20-126.
(9) Exhaust ~~system,~~ system and emissions control devices, as required by G.S. 20-128. For a vehicle that is subject to an emissions inspection in addition to a safety inspection, a visual inspection of the vehicle's ~~emission control~~ emissions control devices is included in the emissions inspection rather than the safety inspection.

(b) Emissions. -- An emissions inspection of a motor vehicle consists of a visual inspection of the vehicle's ~~emission~~ emissions control devices to determine if the devices are present, are properly connected, and are the correct type for the vehicle ~~and~~ and, if the vehicle is a 1975 through 1995 model, an analysis of the exhaust emissions of the vehicle to determine if the exhaust emissions meet the standards for the model year of the vehicle set by the Environmental Management Commission or, if the vehicle is a 1996 or later model, an analysis of data provided by the on-board diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any deterioration or malfunction in the operation of the vehicle that violates standards for the model year of the vehicle set by the Environmental Management Commission. To pass an emissions inspection a vehicle must pass both the visual inspection ~~and~~ and, if the vehicle is a 1975 through 1995 model, the exhaust emissions ~~analysis.~~ analysis or, if the vehicle is a 1996 or later model, the OBD analysis. When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well.

(c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has been repaired after failing an inspection is the same as the original inspection unless the vehicle is presented for reinspection within 30 days of failing the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was a safety inspection, the reinspection is limited to an inspection of the equipment that failed the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was an emissions inspection, the reinspection is limited to the portion of the inspection the vehicle

failed and any other portion of the inspection that would be affected by repairs made to correct the failure."

Section 9. Effective 1 July 2003, G.S. 20-183.2(b), as amended by Sections 7 and 7.1 of this act, reads as rewritten:

"(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.
(2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.
(3) ~~It~~ Except as provided in G.S. 20-183.3(b), it is a ~~1975~~ 1996 or later model.
(4) Repealed by Session Laws 1999-328, s. 3.11.
(5) It meets any of the following descriptions:
    a. It is required to be registered in an emissions county.
    b. It is part of a fleet that is operated primarily in an emissions county.
    c. It is offered for rent in an emissions county.
    d. It is a used vehicle offered for sale by a dealer in an emissions county.
    e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.
    f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.
(6) It is not licensed at the farmer rate under G.S. 20-88(b).
(7) It is not a new motor vehicle, as defined in G.S. 20-286(10)a. and has been a used motor vehicle, as defined in G.S. 20-286(10)b., for 12 months or more. However, a motor vehicle that has been leased or rented, or offered for lease or rent, is subject to an emissions inspection when it either:
    a. Has been leased or rented, or offered for lease or rent, for 12 months or more.
    b. Is sold to a consumer-purchaser."

Section 10. Effective 1 July 2003, G.S. 20-183.3, as amended by Section 8 of this act, reads as rewritten:

"*§ 20-183.3. Scope of safety inspection and emissions inspection.*

(a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the following equipment to determine if the vehicle has the equipment required by Part 9 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

(1) Brakes, as required by G.S. 20-124.
(2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.

(3) Horn, as required by G.S. 20-125(a).
(4) Steering mechanism, as required by G.S. 20-123.1.
(5) Windows and windshield wipers, as required by G.S. 20-127. To determine if a vehicle window meets the window tinting restrictions, a safety inspection mechanic must first determine, based on use of an automotive film check card or knowledge of window tinting techniques, if after-factory tint has been applied to the window. If after-factory tint has been applied, the mechanic must use a light meter approved by the Commissioner to determine if the window meets the window tinting restrictions.
(6) Directional signals, as required by G.S. 20-125.1.
(7) Tires, as required by G.S. 20-122.1.
(8) Mirrors, as required by G.S. 20-126.
(9) Exhaust system and emissions control devices, as required by G.S. 20-128. For a vehicle that is subject to an emissions inspection in addition to a safety inspection, a visual inspection of the vehicle's emissions control devices is included in the emissions inspection rather than the safety inspection.

(b) ~~Emissions.~~ Emissions Inspection Requirements in Certain Counties. -- An emissions inspection of a motor vehicle in the Counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake consists of a visual inspection of the vehicle's emissions control devices to determine if the devices are present, are properly connected, and are the correct type for the vehicle and, if the vehicle is a 1975 through 1995 model, an analysis of the exhaust emissions of the vehicle to determine if the exhaust emissions meet the standards for the model year of the vehicle set by the Environmental Management Commission or, if the vehicle is a 1996 or later model, an analysis of data provided by the on-board diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any deterioration or malfunction in the operation of the vehicle that would cause an increase in the emission of pollutants by the vehicle that violates standards for the model year of the vehicle set by the Environmental Management Commission. To pass an emissions inspection a vehicle must pass both the visual inspection and, if the vehicle is a 1975 through 1995 model, the exhaust emissions analysis or, if the vehicle is a 1996 or later model, the OBD analysis. When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well.

(b1) Emissions. -- An emissions inspection of a motor vehicle consists of a visual inspection of the vehicle's emission control devices to determine if the devices are present, are properly connected, and are the correct type for the vehicle and an analysis of data provided by the on-board diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any deterioration or malfunction in the operation of the vehicle that violates standards for the model year of the vehicle set by the Environmental Management Commission. To

pass an emissions inspection a vehicle must pass both the visual inspection and the OBD analysis. When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well.

(c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has been repaired after failing an inspection is the same as the original inspection unless the vehicle is presented for reinspection within 30 days of failing the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was a safety inspection, the reinspection is limited to an inspection of the equipment that failed the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was an emissions inspection, the reinspection is limited to the portion of the inspection the vehicle failed and any other portion of the inspection that would be affected by repairs made to correct the failure."

Section 11. Effective 1 January 2006, G.S. 20-182.2(b)(3), as amended by Section 9 of this act, reads as rewritten:

"(3) ~~Except as provided in G.S. 20-183.3(b), it~~ It is a 1996 or later model."

Section 12. Effective 1 January 2006, G.S. 20-183.3(b), as amended by Sections 8 and 10 of this act, is repealed.

Section 13. Effective 1 July 2002, G.S. 20-183.4A reads as rewritten:

"§ *20-183.4A. License required to perform emissions inspection; qualifications for license.*

(a) License Required. -- An emissions inspection must be performed by one of the following methods:

(1) At a station that has an emissions inspection station license issued by the Division and by a mechanic who is employed by the station and has an emissions inspection mechanic license issued by the Division.

(2) At a place of business of a person who has an emissions self-inspector license issued by the Division and by an individual who has an emissions inspection mechanic license.

(b) Station Qualifications. -- An applicant for a license as an emissions inspection station must meet all of the following requirements:

(1) Have a license as a safety inspection station.

(2) Have an emissions analyzer approved by the Environmental Management ~~Commission.~~ Commission, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission, or both.

(3) Have equipment to transfer information on emissions inspections to the Division by electronic means.

(4) Regularly employ at least one mechanic who has an emissions inspection mechanic license.

Environmental Management Commission, and any other topic required by 40 C.F.R. § 51.367 to be included in the course. Successful completion requires a passing score on a written test and on a hands-on test in which the student is required to conduct an emissions inspection of a motor vehicle.

(d) Self-Inspector Qualifications. -- An applicant for a license as an emissions self-inspector must meet all of the following requirements:

(1) Have a license as a safety self-inspector.

(2) Operate a fleet of at least 10 vehicles that are subject to an emissions inspection.

(3) ~~Have,~~ In the Counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake, have, or have a contract with a person who has, an emissions analyzer approved by the Environmental Management Commission, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission, or both.

(3a) Have, or have a contract with a person who has, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission.

(4) Regularly employ or contract with an individual who has an emissions inspection mechanic license and who will perform an emissions inspection on the vehicles that are part of the self-inspector's fleet."

Section 15. Effective 1 January 2006, subdivision (2) of subsection (b), subdivision (2) of subsection (c), and subdivision (3) of subsection (d) of G.S. 20-183.4A, as amended by Sections 13 and 14 of this act, are repealed.

Section 16. Effective 1 July 2002, G.S. 20-183.5(a) reads as rewritten:

"(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all of the following requirements:

(1) Fails an emissions inspection because it passes the visual inspection ~~part of the inspection~~ but fails the analysis of exhaust emissions ~~analysis part of the inspection.~~ or the analysis of data provided by the on-board diagnostic (OBD) equipment.

(2) Has documented repairs costing at least the waiver amount made to the vehicle to correct the cause of the failure. The waiver amount is seventy-five dollars ($75.00) if the vehicle is a pre-1981 model and is two hundred dollars ($200.00) if the vehicle is a 1981 or newer model.

(3) Is reinspected and again fails the inspection because it passes the visual inspection ~~part of the inspection~~ but fails the analysis of exhaust emissions ~~analysis part of the inspection.~~

or the analysis of data provided by the on-board diagnostic (OBD) equipment.

(4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

Section 17. Effective 1 January 2006, G.S. 20-183.5(a), as amended by Section 16 of this act, reads as rewritten:

"(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all of the following requirements:

(1) Fails an emissions inspection because it passes the visual inspection but fails ~~the analysis of exhaust emissions or~~ the analysis of data provided by the on-board diagnostic (OBD) equipment.

(2) Has documented repairs costing at least the waiver amount made to the vehicle to correct the cause of the failure. The waiver amount is seventy-five dollars ($75.00) if the vehicle is a pre-1981 model and is two hundred dollars ($200.00) if the vehicle is a 1981 or newer model.

(3) Is reinspected and again fails the inspection because it passes the visual inspection but fails ~~the analysis of exhaust emissions or~~ the analysis of data provided by the on-board diagnostic (OBD) equipment.

(4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

Section 18. Effective 1 July 2002, G.S. 20-183.8C reads as rewritten:

"*§ 20-183.8C. Acts that are Type I, II, or III emissions violations.*

(a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Put an emissions inspection sticker on a vehicle without performing an emissions inspection of the vehicle.

(1a) Put an emissions inspection sticker on a vehicle after performing an emissions inspection of the vehicle and determining that the vehicle did not pass the inspection.

(2) Use a test-defeating strategy when conducting an emissions inspection, such as holding the accelerator pedal down slightly during an idle test, disconnecting or crimping a vacuum hose to effect a passing result, or changing the emission standards for a vehicle by incorrectly entering the vehicle type or model year to achieve a passing result.

(3) Allow a person who is not licensed as an emissions inspection mechanic to perform an emissions inspection for a self-inspector or at an emissions station.

(4) Sell or otherwise give an inspection sticker to another other than as the result of a vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.

Environmental Management Commission, and any other topic required by 40 C.F.R. § 51.367 to be included in the course. Successful completion requires a passing score on a written test and on a hands-on test in which the student is required to conduct an emissions inspection of a motor vehicle.

(d) Self-Inspector Qualifications. -- An applicant for a license as an emissions self-inspector must meet all of the following requirements:

(1) Have a license as a safety self-inspector.

(2) Operate a fleet of at least 10 vehicles that are subject to an emissions inspection.

(3) ~~Have,~~ In the Counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake, have, or have a contract with a person who has, an emissions analyzer approved by the Environmental Management Commission, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission, or both.

(3a) Have, or have a contract with a person who has, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission.

(4) Regularly employ or contract with an individual who has an emissions inspection mechanic license and who will perform an emissions inspection on the vehicles that are part of the self-inspector's fleet."

Section 15. Effective 1 January 2006, subdivision (2) of subsection (b), subdivision (2) of subsection (c), and subdivision (3) of subsection (d) of G.S. 20-183.4A, as amended by Sections 13 and 14 of this act, are repealed.

Section 16. Effective 1 July 2002, G.S. 20-183.5(a) reads as rewritten:

"(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all of the following requirements:

(1) Fails an emissions inspection because it passes the visual inspection ~~part of the inspection~~ but fails the analysis of exhaust emissions ~~analysis part of the inspection.~~ or the analysis of data provided by the on-board diagnostic (OBD) equipment.

(2) Has documented repairs costing at least the waiver amount made to the vehicle to correct the cause of the failure. The waiver amount is seventy-five dollars ($75.00) if the vehicle is a pre-1981 model and is two hundred dollars ($200.00) if the vehicle is a 1981 or newer model.

(3) Is reinspected and again fails the inspection because it passes the visual inspection ~~part of the inspection~~ but fails the analysis of exhaust emissions ~~analysis part of the inspection.~~

or the analysis of data provided by the on-board diagnostic (OBD) equipment.

(4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

Section 17. Effective 1 January 2006, G.S. 20-183.5(a), as amended by Section 16 of this act, reads as rewritten:

"(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all of the following requirements:

(1) Fails an emissions inspection because it passes the visual inspection but fails ~~the analysis of exhaust emissions or~~ the analysis of data provided by the on-board diagnostic (OBD) equipment.

(2) Has documented repairs costing at least the waiver amount made to the vehicle to correct the cause of the failure. The waiver amount is seventy-five dollars ($75.00) if the vehicle is a pre-1981 model and is two hundred dollars ($200.00) if the vehicle is a 1981 or newer model.

(3) Is reinspected and again fails the inspection because it passes the visual inspection but fails ~~the analysis of exhaust emissions or~~ the analysis of data provided by the on-board diagnostic (OBD) equipment.

(4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

Section 18. Effective 1 July 2002, G.S. 20-183.8C reads as rewritten:

"*§ 20-183.8C. Acts that are Type I, II, or III emissions violations.*

(a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Put an emissions inspection sticker on a vehicle without performing an emissions inspection of the vehicle.

(1a) Put an emissions inspection sticker on a vehicle after performing an emissions inspection of the vehicle and determining that the vehicle did not pass the inspection.

(2) Use a test-defeating strategy when conducting an emissions inspection, such as holding the accelerator pedal down slightly during an idle test, disconnecting or crimping a vacuum hose to effect a passing result, or changing the emission standards for a vehicle by incorrectly entering the vehicle type or model year to achieve a passing result.

(3) Allow a person who is not licensed as an emissions inspection mechanic to perform an emissions inspection for a self-inspector or at an emissions station.

(4) Sell or otherwise give an inspection sticker to another other than as the result of a vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.

(5) Be unable to account for five or more inspection stickers at any one time upon the request of an auditor of the Division.

(6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.

(7) Transfer an inspection sticker from one vehicle to another.

(b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Use the identification code of another to gain access to an emissions ~~analyzer.~~ analyzer or to equipment to analyze data provided by on-board diagnostic (OBD) equipment.

(2) Keep inspection stickers and other compliance documents in a manner that makes them easily accessible to individuals who are not inspection mechanics.

(3) Put an emissions inspection sticker on a vehicle that is required to have one of the following emissions control devices but does not have it:

a. Catalytic converter.
b. PCV valve.
c. Thermostatic air control.
d. Oxygen sensor.
e. Unleaded gas restrictor.
f. Gasoline tank cap.
g. Air injection system.
h. Evaporative emissions system.
i. Exhaust gas recirculation (EGR) valve.

(4) Put an emissions inspection sticker on a vehicle without performing a visual inspection of the vehicle's exhaust system and checking the exhaust system for leaks.

(5) Impose no fee for an emissions inspection of a vehicle or the issuance of an emissions inspection sticker or impose a fee for one of these actions in an amount that differs from the amount set in G.S. 20-183.7.

(c) Type III. -- It is a Type III violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Fail to post an emissions license issued by the Division.

(2) Fail to send information on emissions inspections to the Division at the time or in the form required by the Division.

(3) Fail to post emissions information required by federal law to be posted.

(4) Fail to put the required information on an inspection sticker in a legible manner using ink.

(5) Fail to put the required information on an inspection receipt in a legible manner.

(6) Fail to maintain ~~an emissions analyzer~~ a maintenance ~~log.~~ log for an emissions analyzer or for equipment to analyze data provided by on-board diagnostic (OBD) equipment.

(d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation."

Section 19. Effective 1 January 2006, G.S. 20-183.8C, as amended by Section 18 of this act, reads as rewritten:

"*§ 20-183.8C. Acts that are Type I, II, or III emissions violations.*

(a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Put an emissions inspection sticker on a vehicle without performing an emissions inspection of the vehicle.

(1a) Put an emissions inspection sticker on a vehicle after performing an emissions inspection of the vehicle and determining that the vehicle did not pass the inspection.

(2) Use a test-defeating strategy when conducting an emissions inspection, such as holding the accelerator pedal down slightly during an idle test, disconnecting or crimping a vacuum hose to effect a passing result, or changing the emission standards for a vehicle by incorrectly entering the vehicle type or model year to achieve a passing result.

(3) Allow a person who is not licensed as an emissions inspection mechanic to perform an emissions inspection for a self-inspector or at an emissions station.

(4) Sell or otherwise give an inspection sticker to another other than as the result of a vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.

(5) Be unable to account for five or more inspection stickers at any one time upon the request of an auditor of the Division.

(6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.

(7) Transfer an inspection sticker from one vehicle to another.

(b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Use the identification code of another to gain access ~~to an emissions analyzer or~~ to equipment to analyze data provided by on-board diagnostic (OBD) equipment.

(2) Keep inspection stickers and other compliance documents in a manner that makes them easily accessible to individuals who are not inspection mechanics.

(3) Put an emissions inspection sticker on a vehicle that is required to have one of the following emissions control devices but does not have it:

a. Catalytic converter.

b. PCV valve.

c. Thermostatic air control.

d. Oxygen sensor.
e. Unleaded gas restrictor.
f. Gasoline tank cap.
g. Air injection system.
h. Evaporative emissions system.
i. Exhaust gas recirculation (EGR) valve.

(4) Put an emissions inspection sticker on a vehicle without performing a visual inspection of the vehicle's exhaust system and checking the exhaust system for leaks.

(5) Impose no fee for an emissions inspection of a vehicle or the issuance of an emissions inspection sticker or impose a fee for one of these actions in an amount that differs from the amount set in G.S. 20-183.7.

(c) Type III. -- It is a Type III violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Fail to post an emissions license issued by the Division.

(2) Fail to send information on emissions inspections to the Division at the time or in the form required by the Division.

(3) Fail to post emissions information required by federal law to be posted.

(4) Fail to put the required information on an inspection sticker in a legible manner using ink.

(5) Fail to put the required information on an inspection receipt in a legible manner.

(6) Fail to maintain a maintenance log ~~for an emissions analyzer or~~ for equipment to analyze data provided by on-board diagnostic (OBD) equipment.

(d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation."

Section 20. During the period 1 July 2002 through 31 December 2005, in the counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake, an emissions inspection station, an emissions inspection mechanic, and an emissions self-inspector, as those terms are used in G.S. 20-183.4A, may elect to perform emissions inspections: (i) only on 1975 through 1995 model vehicles using an emissions analyzer; (ii) only on 1996 or later model vehicles using equipment to analyze data provided by the on-board diagnostic (OBD) equipment, or (iii) both on 1975 through 1995 model vehicles using an emissions analyzer and on 1996 or later model vehicles using equipment to analyze data provided by the on-board diagnostic (OBD) equipment. This section shall not be construed to authorize an emissions inspection station or an emissions self-inspector to perform an emissions inspection on a vehicle of a model year for which the emissions inspection station or emissions self-inspector does not have the equipment necessary to perform an emissions inspection of vehicles of that model year. This

section shall not be construed to authorize an emissions inspection mechanic to perform an emissions inspection on a vehicle unless the emissions inspection mechanic has successfully completed a course, as required by G.S. 20-183.4A(2) or G.S. 20-183.4A(2a), that includes training on the use of the equipment necessary to perform an emissions inspection on vehicles of that model year.

Section 21. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Environmental Management Commission and the Division of Motor Vehicles of the Department of Transportation may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

Section 22. Effective 1 July 2000, G.S. 136-17.2A(a) reads as rewritten:

"(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and both State and federal-aid funds expended under the Transportation Improvement Program, other than federal congestion mitigation and air quality improvement program funds appropriated to the State by the United States pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149, funds expended on an urban loop project listed in G.S. 136-180 and funds received through competitive awards or discretionary grants through federal appropriations either for local governments, transportation authorities, transit authorities, or the Department, shall be distributed throughout the State in accordance with this section.

(1) Distribution Region A consists of the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.

(2) Distribution Region B consists of the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.

(3) Distribution Region C consists of the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.

(4) Distribution Region D consists of the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.

(5) Distribution Region E consists of the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.

(6) Distribution Region F consists of the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba,

Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.

(7) Distribution Region G consists of the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey."

Section 23. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, the Division of Motor Vehicles of the Department of Transportation, the affected parties, and the Fiscal Research Division of the Legislative Services Office shall study issues related to the costs associated with the motor vehicle safety and emissions inspection and maintenance program. The Commission shall determine what constitutes a reasonable fee for motor vehicle inspections under the current program and under the enhanced inspection and maintenance program to be implemented pursuant to G.S. 20-183.3, as amended by Sections 8, 10, and 12 of this act. In determining what constitutes a reasonable fee, the Commission shall consider the cost of emissions inspection equipment, the useful life of the equipment, the average period of time during which a purchaser of this equipment is able to amortize this cost, telephone charges incurred in connection with the registration denial program, whether a fee should be charged to reinspect a vehicle that fails an emissions inspection after repairs to the vehicle have been made, the cost of the safety inspection program in relation to the emissions inspection program, and any other factors that the Commission determines to be relevant. The Commission may also evaluate strategies to ensure an efficient and orderly implementation of the enhanced inspection and maintenance program required by Part III of S.L. 1999-328 and this act. The Environmental Review Commission shall recommend legislation to amend G.S. 20-183.7 to increase the fee for motor vehicle emissions inspections to the 2001 General Assembly.

Section 24. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 2000.

Became law upon approval of the Governor at 8:53 a.m. on the 14th day of July, 2000.

H.B. 1184 **SESSION LAW 2000-135**

AN ACT TO AMEND THE DEFINITION OF "NEW INSTITUTIONAL HEALTH SERVICES" IN ARTICLE 9 OF CHAPTER 131E OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-176(16) is amended by adding the following new sub-subdivision to read:

"t. The relocation or expansion of part or all of an ambulatory surgical facility which requires a new license under Part D of Article 6 of this Chapter, or the relocation and addition of part or all of a hospital operating room to a building other than one within which it is currently located."

Section 2. This act is effective when it becomes law and is repealed effective July 1, 2001. This act shall not apply to a party involved in litigation pending on or before the effective date of this act.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 10:20 a.m. on the 14th day of July, 2000.

S.B. 767 **SESSION LAW 2000-136**

AN ACT TO REVISE THE LIMITATION ON LOBBYIST-RELATED FUND-RAISING TO STRENGTHEN THE ACT AND TO COMPLY WITH A COURT DECISION; TO AUTHORIZE THE STATE BOARD OF ELECTIONS TO ADOPT A PLAN DESIGNATING ONE-STOP VOTING SITES IN A COUNTY WHERE THE COUNTY BOARD OF ELECTIONS WAS UNABLE TO REACH UNANIMITY ON A PLAN AND A MEMBER OR MEMBERS OF THAT COUNTY BOARD HAS PETITIONED THE STATE BOARD TO ADOPT A PLAN; AND TO PROVIDE FUNDING FOR COUNTIES TO OPERATE MULTIPLE ONE-STOP VOTING SITES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-278.13B reads as rewritten:

"§ *163-278.13B. Limitation on fund-raising during legislative session.*

(a) Definitions. -- For purposes of this section:

(1) 'Limited contributor' means a lobbyist registered pursuant to Article 9A of Chapter 120 of the General Statutes, that lobbyist's agent, that lobbyist's principal as defined in G.S. 120-47.1(7), or a political committee that employs or contracts with or whose parent entity employs or contracts with a lobbyist registered pursuant to Article 9A of Chapter 120 of the General Statutes.

(2) 'Limited contributee' means a member of or candidate for the Council of State, a member of or candidate for the General ~~Assembly, or a political committee the purpose of which is to assist a member or members of or candidate or candidates for the Council of State or General~~ Assembly.

(3) The General Assembly is in 'regular session' from the date set by law or resolution that the General Assembly convenes until the General Assembly either adjourns sine die or recesses or adjourns for more than 10 days.

(4) A contribution is 'made' during regular session if the check or other instrument is dated during the session, or if the

check or other instrument is delivered to the limited contributee during session, or if the limited contributor pledges during the session to deliver the check or other instrument at a later time.

(5) A contribution is 'accepted' during regular session if the check or other instrument is dated during the session, or if the limited contributee receives the check or other instrument during session and does not return it within 10 days, or agrees during session to receive the check or other instrument at a later time.

(b) Prohibited Solicitations. -- While the General Assembly is in regular session, no limited contributee or the real or purported agent of a limited contributee shall:

(1) Solicit a contribution from a limited contributor to be made to that limited contributee or to be made to any other candidate, officeholder, or political committee; or

(2) Solicit a third party, requesting or directing that the third party directly or indirectly solicit a contribution from a limited contributor or relay to the ~~prohibited~~ limited contributor the ~~prohibited~~ limited contributee's solicitation of a contribution.

It shall not be deemed a violation of this section for a limited contributee to serve on a board or committee of an organization that makes a solicitation of a limited contributor as long as that limited contributee does not directly participate in the solicitation and that limited contributee does not directly benefit from the solicitation.

(c) Prohibited Contributions. -- While the General Assembly is in regular session:

(1) No limited contributor shall make or offer to make a contribution to a limited contributee.

(2) No limited contributor shall make a contribution to any candidate, officeholder, or political committee, directing or requesting that the contribution be made in turn to a limited contributee.

(3) No limited contributor shall transfer any amount of money or anything of value to any entity, directing or requesting that the entity use what was transferred to contribute to a limited contributee.

(4) No limited contributee or the real or purported agent of a limited contributee prohibited from solicitation by subsection (b) of this section shall accept a contribution from a limited contributor.

(5) No limited contributor shall solicit a contribution from any individual or political committee on behalf of a limited contributee. This subdivision does not apply to a limited contributor soliciting a contribution on behalf of a political party executive committee if the solicitation is solely for a separate segregated fund kept by the political party limited to use for activities that are not candidate-specific, including

generic voter registration and get-out-the-vote efforts, pollings, mailings, and other general activities and advertising that do not refer to a specific individual candidate.

(d) Exception. -- The provisions of this section do not apply with regard to a limited contributee during the three weeks prior to the day of a second primary if that limited contributee is a candidate who will be on the ballot in that second primary.

(e) Prosecution. -- A violation of this section is a Class 2 misdemeanor."

Section 2. G.S. 163-227.2(g) reads as rewritten:

"(g) Notwithstanding any other provision of this section, a county board of elections by unanimous vote of all its members may provide for one or more sites in that county for absentee ballots to be applied for and cast under this section. Any site other than the county board of elections office shall be in any building or part of a building that the county board of elections is entitled under G.S. 163-129 to demand and use as a voting place. Every individual staffing any of those sites shall be a member or full-time employee of the county board of elections or an employee of the county board of elections whom the board has given training equivalent to that given a full-time employee. Those sites must be approved by the State Board of Elections as part of a Plan for Implementation approved by both the county board of elections and by the State Board of Elections which shall also provide adequate security of the ballots and provisions to avoid allowing persons to vote who have already voted. The Plan for Implementation shall include a provision for the presence of political party observers at each one-stop site equivalent to the provisions in G.S. 163-45 for party observers at voting places on election day. If a county board of elections has considered a proposed Plan or Plans for Implementation and has been unable to reach unanimity in favor of a Plan, a member or members of that county board of elections may petition the State Board of Elections to adopt a plan for it. If petitioned, the State Board may also receive and consider alternative petitions from another member or members of that county board. The State Board of Elections may adopt a Plan for that county. The State Board, in that plan, shall take into consideration factors including geographic, demographic, and partisan interests of that county."

Section 3.(a) There is appropriated from the General Fund for the 2000-2001 fiscal year the sum of two hundred fifty thousand dollars ($250,000) to the State Board of Elections for the purpose of funding and administering a one-time grant-in-aid program to counties to operate multiple One-Stop absentee voting sites.

Section 3.(b) Counties shall use funds granted pursuant to this section to offset costs associated with the implementation of G.S. 163-227.2(g).

Section 3.(c) The State Board of Elections shall develop and issue procedures related to a grant process for grant applications and grant awards to counties. The procedures developed shall include a

requirement that counties submit a plan outlining how the funds will be used. The procedures shall be developed and issued no later than July 31, 2000. The procedures shall include a specific application deadline and the date by which grant award decisions shall be made by the board. County grants-in-aid to boards of county commissioners shall be awarded no later than September 15, 2000.

Section 3.(d) Criteria for the amount of grant awards shall include county population and county voter registration and shall be used to encourage greater voter accessibility in the various counties. No board of county commissioners shall use grant funds issued pursuant to this section to supplant funds previously budgeted for the county board of elections.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 4:42 p.m. on the]17th day of July, 2000.

H.B. 1804 **SESSION LAW 2000-137**

AN ACT TO ESTABLISH THE DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION AND TO MAKE CONFORMING AMENDMENTS TO THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

PART I. CREATION OF DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

Section 1.(a) Article 3C of Chapter 147 of the General Statutes is repealed.

Section 1.(b) Chapter 143B of the General Statutes is amended by adding a new Article to read:

"ARTICLE 12.

"Department of Juvenile Justice and Delinquency Prevention.

"Part 1. Creation of Department.

"*§ 143B-511. Creation of the Department of Juvenile Justice and Delinquency Prevention.*

There is hereby created and constituted a department to be known as the 'Department of Juvenile Justice and Delinquency Prevention', with the organization, powers, and duties defined in Article 1 of this Chapter, except as modified in this Article.

"*§ 143B-512. Transfer of Office of Juvenile Justice authority to the Department of Juvenile Justice and Delinquency Prevention.*

(a) All (i) statutory authority, powers, duties, and functions, including directives of S.L. 1998-202, rule making, budgeting, and purchasing, (ii) records, (iii) personnel, personnel positions, and salaries, (iv) property, and (v) unexpended balances of appropriations, allocations, reserves, support costs, and other funds of the Office of Juvenile Justice under the Office of the Governor are transferred to

and vested in the Department of Juvenile Justice and Delinquency Prevention. This transfer has all of the elements of a Type I transfer as defined in G.S. 143A-6.

(b) The Department shall be considered a continuation of the Office of Juvenile Justice for the purpose of succession to all rights, powers, duties, and obligations of the Office and of those rights, powers, duties, and obligations exercised by the Office of the Governor on behalf of the Office of Juvenile Justice. Where the Office of Juvenile Justice is referred to by law, contract, or other document, that reference shall apply to the Department. Where the Office of the Governor is referred to by contract or other document, where the Office of the Governor is acting on behalf of the Office of Juvenile Justice, that reference shall apply to the Department.

(c) All institutions previously operated by the Office of Juvenile Justice and the present central office of the Office of Juvenile Justice, including land, buildings, equipment, supplies, personnel, or other properties rented or controlled by the Office or by the Office of the Governor for the Office of Juvenile Justice, shall be administered by the Department of Juvenile Justice and Delinquency Prevention.

"Part 2. General Provisions.

"*§ 143B-513. Definitions.*

In this Article, unless the context clearly requires otherwise, the following words have the listed meanings:

(1) Chief court counselor. -- The person responsible for administration and supervision of juvenile intake, probation, and post-release supervision in each judicial district, operating under the supervision of the Department of Juvenile Justice and Delinquency Prevention.

(2) Community-based program. -- A program providing nonresidential or residential treatment to a juvenile under the jurisdiction of the juvenile court in the community where the juvenile's family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.

(3) County Councils. -- Juvenile Crime Prevention Councils created under G.S. 143B-529.

(4) Court. -- The district court division of the General Court of Justice.

(5) Court counselor. -- A person responsible for probation and post-release supervision to juveniles under the supervision of the chief court counselor.

(6) Custodian. -- The person or agency that has been awarded legal custody of a juvenile by a court.

(7) Delinquent juvenile. -- Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws.

(8) Department. -- The Department of Juvenile Justice and Delinquency Prevention.

(9) Detention. -- The secure confinement of a juvenile under a court order.

(10) Detention facility. -- A facility approved to provide secure confinement and care for juveniles. Detention facilities include both State and locally administered detention homes, centers, and facilities.

(11) District. -- Any district court district as established by G.S. 7A-133.

(12) Judge. -- Any district court judge.

(13) Judicial district. -- Any district court district as established by G.S. 7A-133.

(14) Juvenile. -- Except as provided in subdivisions (7) and (22) of this section, any person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the armed forces of the United States. Wherever the term 'juvenile' is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well.

(15) Juvenile court. -- Any district court exercising jurisdiction under this Chapter.

(16) Post-release supervision. -- The supervision of a juvenile who has been returned to the community after having been committed to the Department for placement in a training school.

(17) Probation. -- The status of a juvenile who has been adjudicated delinquent, is subject to specified conditions under the supervision of a court counselor, and may be returned to the court for violation of those conditions during the period of probation.

(18) Protective supervision. -- The status of a juvenile who has been adjudicated undisciplined and is under the supervision of a court counselor.

(19) Secretary. -- The Secretary of Juvenile Justice and Delinquency Prevention.

(20) State Council. -- The State Advisory Council on Juvenile Justice and Delinquency Prevention established under G.S. 143B-536.

(21) Training school. -- A secure residential facility authorized to provide long-term treatment, education, and rehabilitative services for delinquent juveniles committed by the court to the Department.

(22) Undisciplined juvenile. --

a. A juvenile who, while less than 16 years of age but at least 6 years of age, is unlawfully absent from school; or is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours; or

b. A juvenile who is 16 or 17 years of age and who is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours.

"*§ 143B-514. Duties and powers of the Department of Juvenile Justice and Delinquency Prevention.*

(a) The head of the Department is the Secretary. The Secretary shall have the powers and duties conferred by this Chapter, delegated by the Governor, and conferred by the Constitution and laws of this State. The Secretary shall be responsible for effectively and efficiently organizing the Department to promote the policy of the State as set forth in this Article and to promote public safety and to prevent the commission of delinquent acts by juveniles.

(b) The Secretary shall have the following powers and duties:

(1) Give leadership to the implementation as appropriate of State policy that requires that training schools be phased out as populations diminish.

(2) Close a State training school when its operation is no longer justified and transfer State funds appropriated for the operation of that training school to fund community-based programs, to purchase care or services for predelinquents, delinquents, or status offenders in community-based or other appropriate programs, or to improve the efficiency of existing training schools, provided the Advisory Budget Commission reviews this action.

(3) Administer a sound admission or intake program for juvenile facilities, including the requirement of a careful evaluation of the needs of each juvenile prior to acceptance and placement.

(4) Operate juvenile facilities and implement programs that meet the needs of juveniles receiving services and that assist them to become productive, responsible citizens.

(5) Adopt rules to implement this Article and the responsibilities of the Secretary and the Department under Chapter 7B of the General Statutes. The Secretary may adopt rules applicable to local human services agencies providing juvenile court and delinquency prevention services for the purpose of program evaluation, fiscal audits, and collection of third-party payments.

(6) Ensure a statewide and uniform system of juvenile intake, protective supervision, probation, and post-release supervision services in all district court districts of the State. The system shall provide appropriate, adequate, and uniform services to all juveniles who are alleged or found to be undisciplined or delinquent.

(7) Establish procedures for substance abuse testing for juveniles adjudicated delinquent for substance abuse offenses.

(8) Plan, develop, and coordinate comprehensive multidisciplinary services and programs statewide for the prevention of juvenile delinquency, early intervention, and rehabilitation of juveniles.

(9) Develop standards, approve yearly program evaluations, and make recommendations based on the evaluations to the General Assembly concerning continuation funding.

(10) Collect expense data for every program operated and contracted by the Department.

(11) Develop a formula for funding, on a matching basis, juvenile court and delinquency prevention services as provided for in this Article. This formula shall be based upon the county's or counties' relative ability to fund community-based programs for juveniles.

Local governments receiving State matching funds for programs under this Article must maintain the same overall level of effort that existed at the time of the filing of the county assessment of juvenile needs with the Department.

(12) Assist local governments and private service agencies in the development of juvenile court services and delinquency prevention services and provide information on the availability of potential funding sources and assistance in making application for needed funding.

(13) Assist the Criminal Justice Information Network Governing Board with administering a comprehensive juvenile justice information system to collect data and information about delinquent juveniles for the purpose of developing treatment and intervention plans and allowing reliable assessment and evaluation of the effectiveness of rehabilitative and preventive services provided to delinquent juveniles.

(14) Coordinate State-level services in relation to delinquency prevention and juvenile court services so that any citizen may go to one place in State government to receive information about available juvenile services.

(15) Appoint the chief court counselor in each district upon the recommendation of the chief district court judge of that district.

(16) Develop a statewide plan for training and professional development of chief court counselors, court counselors, and other personnel responsible for the care, supervision, and treatment of juveniles. The plan shall include attendance at appropriate professional meetings and opportunities for educational leave for academic study.

(17) Study issues related to qualifications, salary ranges, appointment of personnel on a merit basis, including chief court counselors, court counselors, secretaries, and other

appropriate personnel, at the State and district levels in order to adopt appropriate policies and procedures governing personnel.

(c) Except as otherwise specifically provided in this Article and in Article 1 of this Chapter, the Secretary shall prescribe the functions, powers, duties, and obligations of every agency or division in the Department.

(d) Where Department statistics indicate the presence of minority youth in juvenile facilities disproportionate to their presence in the general population, the Department shall develop and recommend appropriate strategies designed to ensure fair and equal treatment in the juvenile justice system.

(e) The Department may provide consulting services and technical assistance to courts, law enforcement agencies, and other agencies, local governments, and public and private organizations. The Department may develop or assist Juvenile Crime Prevention Councils in developing community needs, assessments, and programs relating to the prevention and treatment of delinquent and undisciplined behavior.

(f) The Department shall develop a cost-benefit model for each State-funded program. Program commitment and recidivism rates shall be components of the model. In developing the model, the Department shall consider the recommendations of the State Advisory Council on Juvenile Justice and Delinquency Prevention.

"§ 143B-515. *Authority to contract with other entities.*

(a) The Department may contract with any governmental agency, person, or association for the accomplishment of its duties and responsibilities. The expenditure of funds under these contracts shall be for the purposes for which the funds were appropriated and not otherwise prohibited by law.

(b) The Department may enter into contracts with, and act as intermediary between, any federal government agency and any county of this State for the purpose of assisting the county to recover monies expended by a county-funded financial assistance program. As a condition of assistance, the county shall agree to hold and save harmless the Department against any claims, loss, or expense which the Department might incur under the contracts by reason of any erroneous, unlawful, or tortious act or omission of the county or its officials, agents, or employees.

(c) The Department and any other appropriate State or local agency may purchase services from public or private agencies providing delinquency prevention programs or juvenile court services, including parenting responsibility classes. The programs shall meet State standards. As institutional populations are reduced, the Department may divert State funds appropriated for institutional programs to purchase the services under the Executive Budget Act.

(d) Each programmatic, residential, and service contract or agreement entered into by the Department shall include a cooperation clause to ensure compliance with the Department's quality assurance requirements and cost-accounting requirements.

"§ *143B-516. Authority to assist private nonprofit foundations.*

The Department may provide appropriate services or allow employees of the Department to assist any private nonprofit foundation that works directly with the Department's services or programs and whose sole purpose is to support these services and programs. A Department employee shall be allowed to work with a foundation no more than 20 hours in any one month. These services are not subject to Chapter 150B of the General Statutes.

The board of directors of each private, nonprofit foundation shall secure and pay for the services of the Department of State Auditor or employ a certified public accountant to conduct an annual audit of the financial accounts of the foundation. The board of directors shall transmit to the Department a copy of the annual financial audit report of the private nonprofit foundation.

"§ *143B-517. Annual report.*

On or before April 1 each year, beginning with the year 2001, the Department shall report to the General Assembly on the effectiveness and cost benefit of every program operated and contracted by the Department and a summary of the local programs that receive State funding. The report shall include the most current institutional populations of juveniles being served by the Department, a comparison of the costs of the services, and a ranking of all programs that provide services to juveniles. The Department shall submit the report to the various State agencies providing services to juveniles.

"Part 3. Juvenile Facilities.

"§ *143B-518. Juvenile facilities.*

In order to provide any juvenile in a juvenile facility with appropriate treatment according to that juvenile's need, the Department shall be responsible for the administration of statewide educational, clinical, psychological, psychiatric, social, medical, vocational, and recreational services or programs.

"§ *143B-519. Authority to provide necessary medical or surgical care.*

The Department may provide any medical and surgical treatment necessary to preserve the life and health of juveniles committed to the custody of the Department; however, no surgical operation may be performed except as authorized in G.S. 148-22.2.

"§ *143B-520. Compensation to juveniles in care.*

A juvenile who has been committed to the Department may be compensated for work or participation in training programs at rates approved by the Secretary within available funds. The Secretary may provide for a reasonable allowance to the juvenile for incidental personal expenses, and any balance of the juvenile's earnings remaining at the time the juvenile is released shall be paid to the juvenile or the juvenile's parent or guardian. The Department may accept grants or funds from any source to compensate juveniles under this section.

"§ *143B-521. Visits and community activities.*

(a) The Department shall encourage visits by parents or guardians and responsible relatives of juveniles committed to the custody of the Department.

(b) The Department shall develop a program of home visits for juveniles in the custody of the Department. The visits shall begin after the juvenile has been in the custody of the Department for a period of at least six months. In developing the program, the Department shall adopt criteria that promote the protection of the public and the best interests of the juvenile.

"*§ 143B-522. Regional detention services.*

The Department is responsible for juvenile detention services, including the development of a statewide plan for regional juvenile detention services that offer juvenile detention care of sufficient quality to meet State standards to any juvenile requiring juvenile detention care within the State in a detention facility as follows:

(1) The Department shall plan with the counties operating a county detention facility to provide regional juvenile detention services to surrounding counties. The Department has discretion in defining the geographical boundaries of the regions based on negotiations with affected counties, distances, availability of juvenile detention care that meets State standards, and other appropriate factors.

(2) The Department may plan with any county that has space within its county jail system to use the existing space for a county detention facility when needed, if the space meets the State standards for a detention facility and meets all of the requirements of G.S. 153A-221. The use of space within the county jail system shall be constructed to ensure that juveniles are not able to converse with, see, or be seen by the adult population, and juveniles housed in a space within a county jail shall be supervised closely.

(3) The Department shall plan for and administer regional detention facilities. The Department shall carefully plan the location, architectural design, construction, and administration of a program to meet the needs of juveniles in juvenile detention care. The physical facility of a regional detention facility shall comply with all applicable State and federal standards. The programs of a regional detention facility shall comply with the standards established by the Department.

"*§ 143B-523. State subsidy to county detention facilities.*

The Department shall administer a State subsidy program to pay a county that provides juvenile detention services and meets State standards a certain per diem per juvenile. In general, this per diem should be fifty percent (50%) of the total cost of caring for a juvenile from within the county and one hundred percent (100%) of the total cost of caring for a juvenile from another county. Any county placing a juvenile in a detention facility in another county shall pay fifty percent (50%) of the total cost of caring for the juvenile to the

Department. The Department may vary the exact funding formulas to operate within existing State appropriations or other funds that may be available to pay for juvenile detention care.

"*§ 143B-524. Authority for implementation.*

In order to allow for effective implementation of a statewide regional approach to juvenile detention, the Department may:

(1) Release or transfer a juvenile from one detention facility to another when necessary to administer the juvenile's detention appropriately.

(2) Plan with counties that operate county detention facilities to provide regional services and to upgrade physical facilities to contract with counties for services and care, and to pay State subsidies to counties providing regional juvenile detention services that meet State standards.

(3) Allow the State to reimburse law enforcement officers or other appropriate employees of local government for the costs of transportation of a juvenile to and from any juvenile detention facility.

(4) Seek funding for juvenile detention services from federal sources, and accept gifts of funds from public or private sources.

"Part 4. Juvenile Court Services.

"*§ 143B-525. Duties and powers of chief court counselors.*

The chief court counselor in each district appointed under G.S. 143B-514(b)(15) may:

(1) Appoint court counselors, secretaries, and other personnel authorized by the Department in accordance with the personnel policies adopted by the Department.

(2) Supervise and direct the program of juvenile intake, protective supervision, probation, and post-release supervision within the district.

(3) Provide in-service training for staff as required by the Department.

(4) Keep any records and make any reports requested by the Secretary in order to provide statewide data and information about juvenile needs and services.

"*§ 143B-526. Duties and powers of juvenile court counselors.*

As the court or the chief court counselor may direct or require, all juvenile court counselors shall have the following powers and duties:

(1) Secure or arrange for any information concerning a case that the court may require before, during, or after the hearing.

(2) Prepare written reports for the use of the court.

(3) Appear and testify at court hearings.

(4) Assume custody of a juvenile as authorized by G.S. 7B-1900, or when directed by court order.

(5) Furnish each juvenile on probation or protective supervision and that juvenile's parents, guardian, or custodian with a written statement of the juvenile's

conditions of probation or protective supervision, and consult with the juvenile's parents, guardian, or custodian so that they may help the juvenile comply with the conditions.

(6) Keep informed concerning the conduct and progress of any juvenile on probation or under protective supervision through home visits or conferences with the parents or guardian and in other ways.

(7) See that the juvenile complies with the conditions of probation or bring to the attention of the court any juvenile who violates the juvenile's probation.

(8) Make periodic reports to the court concerning the adjustment of any juvenile on probation or under court supervision.

(9) Keep any records of the juvenile's work as the court may require.

(10) Account for all funds collected from juveniles.

(11) Serve necessary court documents pertaining to delinquent and undisciplined juvenile matters.

(12) Assume custody of juveniles under the jurisdiction of the court when necessary for the protection of the public or the juvenile, and when necessary to carry out the responsibilities of court counselors under this section and under Chapter 7B of the General Statutes.

(13) Use reasonable force and restraint necessary to secure custody assumed under subdivision (12) of this section.

(14) Provide supervision for a juvenile transferred to the counselor's supervision from another court or another state, and provide supervision for any juvenile released from an institution operated by the Department when requested by the Department to do so.

(15) Assist in the development of post-release supervision and the supervision of juveniles.

(16) Have any other duties as the court may direct.

"Part 5. Comprehensive Juvenile Delinquency and Substance Abuse Prevention Plan.

"§ 143B-527. Comprehensive Juvenile Delinquency and Substance Abuse Prevention Plan.

(a) The Department shall implement the comprehensive juvenile delinquency and substance abuse prevention plan developed by the Office of Juvenile Justice and shall coordinate with County Councils for implementation of a continuum of services and programs at the community level.

The Department shall ensure that localities are informed about best practices in juvenile delinquency and substance abuse prevention.

(b) The plan shall contain the following:

(1) Identification of the risk factors at the developmental stages of a juvenile's life that may result in delinquent behavior.

(2) Identification of the protective factors that families, schools, communities, and the State must support to reduce the risk of juvenile delinquency.

(3) Programmatic concepts that are effective in preventing juvenile delinquency and substance abuse and that should be made available as basic services in the communities, including:

a. Early intervention programs and services.

b. In-home training and community-based family counseling and parent training.

c. Adolescent and family substance abuse prevention services, including alcohol abuse prevention services, and substance abuse education.

d. Programs and activities offered before and after school hours.

e. Life and social skills training programs.

f. Classes or seminars that teach conflict resolution, problem solving, and anger management.

g. Services that provide personal advocacy, including mentoring relationships, tutors, or other caring adult programs.

(c) The Department shall cooperate with all other affected State agencies and entities in implementing this section.

"Part 6. Juvenile Crime Prevention Councils.

"*§ 143B-528. Legislative intent.*

It is the intent of the General Assembly to prevent juveniles who are at risk from becoming delinquent. The primary intent of this Part is to develop community-based alternatives to training schools and to provide community-based delinquency and substance abuse prevention strategies and programs. Additionally, it is the intent of the General Assembly to provide noninstitutional dispositional alternatives that will protect the community and the juveniles.

These programs and services shall be planned and organized at the community level and developed in partnership with the State. These planning efforts shall include appropriate representation from local government, local public and private agencies serving juveniles and their families, local business leaders, citizens with an interest in youth problems, youth representatives, and others as may be appropriate in a particular community. The planning bodies at the local level shall be the Juvenile Crime Prevention Councils.

"*§ 143B-529. Creation; method of appointment; membership; chair and vice-chair.*

(a) As a prerequisite for a county receiving funding for juvenile court services and delinquency prevention programs, the board of commissioners of a county shall appoint a Juvenile Crime Prevention Council. Each County Council is a continuation of the corresponding Council created under G.S. 147-33.61. The County Council shall consist of not more than 25 members and should include, if possible, the following:

(1) The local school superintendent, or that person's designee;
(2) A chief of police in the county;
(3) The local sheriff, or that person's designee;
(4) The district attorney, or that person's designee;
(5) The chief court counselor, or that person's designee;
(6) The director of the area mental health, developmental disabilities, and substance abuse authority, or that person's designee;
(7) The director of the county department of social services, or consolidated human services agency, or that person's designee;
(8) The county manager, or that person's designee;
(9) A substance abuse professional;
(10) A member of the faith community;
(11) A county commissioner;
(12) A person under the age of 21;
(13) A juvenile defense attorney;
(14) The chief district court judge, or a judge designated by the chief district court judge;
(15) A member of the business community;
(16) The local health director, or that person's designee;
(17) A representative from the United Way or other nonprofit agency;
(18) A representative of a local parks and recreation program; and
(19) Up to seven members of the public to be appointed by the board of commissioners of a county.

The board of commissioners of a county shall modify the County Council's membership as necessary to ensure that the members reflect the racial and socioeconomic diversity of the community and to minimize potential conflicts of interest by members.

(b) Two or more counties may establish a multicounty Juvenile Crime Prevention Council under subsection (a) of this section. The membership shall be representative of each participating county.

(c) The members of the County Council shall elect annually the chair and vice-chair.

"*§ 143B-530. Terms of appointment.*

Each member of a County Council shall serve for a term of two years, except for initial terms as provided in this section. Each member's term is a continuation of that member's term under G.S. 147-33.62. Members may be reappointed. The initial terms of appointment began January 1, 1999. In order to provide for staggered terms, persons appointed for the positions designated in subdivisions (9), (10), (12), (15), (17), and (18) of G.S. 143B-529(a) were appointed for an initial term ending on June 30, 2000. After the initial terms, persons appointed for the positions designated in subdivisions (9), (10), (12), (15), (17), and (18) of G.S. 143B-529(a) shall be appointed for two-year terms, beginning on July 1. All other persons appointed to the Council were appointed for an initial term

ending on June 30, 2001, and, after those initial terms, persons shall be appointed for two-year terms beginning on July 1.

"§ *143B-531. Vacancies; removal.*

Appointments to fill vacancies shall be for the remainder of the former member's term.

Members shall be removed only for malfeasance or nonfeasance as determined by the board of county commissioners.

"§ *143B-532. Meetings; quorum.*

County Councils shall meet at least bimonthly, or more often if a meeting is called by the chair.

A majority of members constitutes a quorum.

"§ *143B-533. Compensation of members.*

Members of County Councils shall receive no compensation but may receive a per diem in an amount established by the board of county commissioners.

"§ *143B-534. Powers and duties.*

(a) Each County Council shall review annually the needs of juveniles in the county who are at risk of delinquency or who have been adjudicated undisciplined or delinquent and the resources available to address those needs. The Council shall develop and advertise a request for proposal process and submit a written plan of action for the expenditure of juvenile sanction and prevention funds to the board of county commissioners for its approval. Upon the county's authorization, the plan shall be submitted to the Department for final approval and subsequent implementation.

(b) Each County Council shall ensure that appropriate intermediate dispositional options are available and shall prioritize funding for dispositions of intermediate and community-level sanctions for court-adjudicated juveniles under minimum standards adopted by the Department.

(c) On an ongoing basis, each County Council shall:

(1) Assess the needs of juveniles in the community, evaluate the adequacy of resources available to meet those needs, and develop or propose ways to address unmet needs.

(2) Evaluate the performance of juvenile services and programs in the community. The Council shall evaluate each funded program as a condition of continued funding.

(3) Increase public awareness of the causes of delinquency and of strategies to reduce the problem.

(4) Develop strategies to intervene and appropriately respond to and treat the needs of juveniles at risk of delinquency through appropriate risk assessment instruments.

(5) Provide funds for services for treatment, counseling, or rehabilitation for juveniles and their families. These services may include court-ordered parenting responsibility classes.

(6) Plan for the establishment of a permanent funding stream for delinquency prevention services.

(d) The Councils may examine the benefits of joint program development between counties within the same judicial district.

"*§ 143B-535. Funding for programs.*

(a) Annually, the Department shall develop and implement a funding mechanism for programs that meet the standards developed under this Part. The Department shall ensure that the guidelines for the State and local partnership's funding process include the following requirements:

(1) Fund effective programs. -- The Department shall fund programs that it determines to be effective in preventing delinquency and recidivism. Programs that have proven to be ineffective shall not be funded.

(2) Use a formula for the distribution of funds. -- A funding formula shall be developed that ensures that even the smallest counties will be able to provide the basic prevention and alternative services to juveniles in their communities.

(3) Allow and encourage local flexibility. -- A vital component of the State and local partnership established by this section is local flexibility to determine how best to allocate prevention and alternative funds.

(4) Combine resources. -- Counties shall be allowed and encouraged to combine resources and services.

(b) The Department shall adopt rules to implement this section. The Department shall provide technical assistance to County Councils and shall require them to evaluate all State-funded programs and services on an ongoing and regular basis.

"Part 7. State Advisory Council on Juvenile Justice and Delinquency Prevention.

"*§ 143B-536. Creation of Council; purpose; members; duties.*

(a) There is created the State Advisory Council on Juvenile Justice and Delinquency Prevention. The State Council shall be located within the Department for organizational, budgetary, and administrative purposes.

(b) The purpose of the State Council is to review and advise the Department in the development of a comprehensive interagency plan to reduce juvenile delinquency and substance abuse and to coordinate efforts among State agencies providing services and supervision to juveniles who are at risk of delinquency and for juveniles who have been adjudicated of delinquent and undisciplined behavior.

(c) The State Council shall consist of 20 members as follows:

(1) The Governor shall appoint five persons, one of whom is a private citizen who has demonstrated an interest in and commitment to juvenile justice issues.

(2) The Chief Justice of the Supreme Court shall appoint four persons.

(3) The following persons, or their designees, shall serve ex officio:

a. The Governor.

b. The Chief Justice of the Supreme Court.

c. The President Pro Tempore of the Senate.
d. The Speaker of the House of Representatives.
e. The Director of the Administrative Office of the Courts.
f. The Superintendent of Public Instruction.
g. The Secretary of Administration.
h. The Secretary of Health and Human Services.
i. The Secretary of Correction.
j. The Secretary of Crime Control and Public Safety.
k. The President of The University of North Carolina.

(d) Initial members, other than ex officio members, who were appointed under former G.S. 147-33.70 and whose terms began January 1, 1999, shall serve for terms as follows:

(1) Three members appointed by the Governor shall serve for terms of two years and two members for terms of three years.

(2) Two members appointed by the Chief Justice of the Supreme Court shall serve for terms of two years and two members for terms of three years.

Thereafter, members, other than ex officio members, shall serve for two-year terms. There is no prohibition against initial members being reappointed.

(e) The Governor and Chief Justice of the Supreme Court shall serve as cochairs of the State Council.

(f) A vacancy on the State Council resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

(g) State Council members shall receive no salary as a result of serving on the Council but shall receive per diem, subsistence, and travel expenses in accordance with G.S. 120-3.1, 138-5, and 138-6, as applicable.

(h) Members may be removed in accordance with G.S. 143B-13 as if that section applied to this Article.

(i) The chairs shall convene the Council. Meetings shall be held as often as necessary but not less than four times a year.

(j) A majority of the members of the Council shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Council is necessary for action to be taken by the Council.

"§ 143B-537. Powers and duties of the Council.

The State Council shall have the following powers and duties:

(1) Advise the Department in the review of the State's juvenile justice planning, the development of the community juvenile justice councils, and the development of a formula for the distribution of funds to Juvenile Crime Prevention Councils.

(2) Advise all State agencies serving juveniles for the purpose of developing a consistent philosophy with regard to providing services to juveniles and promoting collaboration and the efficient and effective delivery of services to juveniles and

families through State, local, and district programs and fully address problems of collaboration across State agencies with the goal of serving juveniles.

(3) Review and comment on juvenile justice, delinquency prevention, and juvenile services grant applications prepared for submission under any federal grant program by any governmental entity of the State.

(4) Review the juvenile justice system's operation and prioritization of funding needs.

(5) Review the progress and accomplishment of State and local juvenile justice, delinquency prevention, and juvenile services projects.

(6) Develop recommendations concerning the establishment of priorities and needed improvements with respect to juvenile justice, delinquency prevention, and juvenile services and report its recommendations to the General Assembly on or before March 1 each year.

(7) Review and comment on the proposed budget for the Department."

PART II. REVISIONS TO THE JUVENILE CODE.

Section 2. G.S. 7B-1501 reads as rewritten:

"*§ 7B-1501. Definitions.*

In this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings:

(1) Chief court counselor. -- The person responsible for administration and supervision of juvenile intake, probation, and post-release supervision in each judicial district, operating under the supervision of the ~~Office of Juvenile Justice.~~ Department of Juvenile Justice and Delinquency Prevention.

(2) Clerk. -- Any clerk of superior court, acting clerk, or assistant or deputy clerk.

(3) Community-based program. -- A program providing nonresidential or residential treatment to a juvenile under the jurisdiction of the juvenile court in the community where the juvenile's family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.

(4) Court. -- The district court division of the General Court of Justice.

(5) Court counselor. -- A person responsible for probation and post-release supervision to juveniles under the supervision of the chief court counselor.

(6) Custodian. -- The person or agency that has been awarded legal custody of a juvenile by a court.

(7) Delinquent juvenile. -- Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws.

(7a) Department. -- The Department of Juvenile Justice and Delinquency Prevention created under Article 12 of Chapter 143B of the General Statutes.

(8) Detention. -- The secure confinement of a juvenile under a court order.

(9) Detention facility. -- A facility approved to provide secure confinement and care for juveniles. Detention facilities include both State and locally administered detention homes, centers, and facilities.

(10) District. -- Any district court district as established by G.S. 7A-133.

(11) Holdover facility. -- A place in a jail which has been approved by the Department of Health and Human Services as meeting the State standards for detention as required in G.S. 153A-221 providing close supervision where the juvenile cannot converse with, see, or be seen by the adult population.

(12) House arrest. -- A requirement that the juvenile remain at the juvenile's residence unless the court or the juvenile court counselor authorizes the juvenile to leave for specific purposes.

(13) Intake counselor. -- A person who screens and evaluates a complaint alleging that a juvenile is delinquent or undisciplined to determine whether the complaint should be filed as a petition.

(14) Interstate Compact on Juveniles. -- An agreement ratified by 50 states and the District of Columbia providing a formal means of returning a juvenile, who is an absconder, escapee, or runaway, to the juvenile's home state, and codified in Article 28 of this Chapter.

(15) Judge. -- Any district court judge.

(16) Judicial district. -- Any district court district as established by G.S. 7A-133.

(17) Juvenile. -- Except as provided in subdivisions (7) and (27) of this section, any person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the armed forces of the United States. Wherever the term "juvenile" is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well.

(18) Juvenile court. -- Any district court exercising jurisdiction under this Chapter.

~~(19) Office. -- The Office of Juvenile Justice.~~

(20) Petitioner. -- The individual who initiates court action by the filing of a petition or a motion for review alleging the matter for adjudication.

(21) Post-release supervision. -- The supervision of a juvenile who has been returned to the community after having been

committed to the ~~Office~~ Department for placement in a training school.

(22) Probation. -- The status of a juvenile who has been adjudicated delinquent, is subject to specified conditions under the supervision of a court counselor, and may be returned to the court for violation of those conditions during the period of probation.

(23) Prosecutor. -- The district attorney or assistant district attorney assigned by the district attorney to juvenile proceedings.

(24) Protective supervision. -- The status of a juvenile who has been adjudicated undisciplined and is under the supervision of a court counselor.

(25) Teen court program. -- A community resource for the diversion of cases in which a juvenile has allegedly committed certain offenses for hearing by a jury of the juvenile's peers, which may assign the juvenile to counseling, restitution, curfews, community service, or other rehabilitative measures.

(26) Training school. -- A secure residential facility authorized to provide long-term treatment, education, and rehabilitative services for delinquent juveniles committed by the court to the ~~Office of Juvenile Justice.~~ Department.

(27) Undisciplined juvenile. --

a. A juvenile who, while less than 16 years of age but at least 6 years of age, is unlawfully absent from school; or is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours; or

b. A juvenile who is 16 or 17 years of age and who is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours.

(28) Wilderness program. -- A rehabilitative residential treatment program in a rural or outdoor setting.

The singular includes the plural, unless otherwise specified."

Section 3. The Revisor of Statutes shall substitute the term "Department of Juvenile Justice and Delinquency Prevention" for the term "Office of Juvenile Justice" everywhere that term appears in the General Statutes, except for those sections of the General Statutes amended in this act. Except where the statutes specifically reference the Administrative Office of the Courts or the Office of Guardian Ad Litem Services, the Revisor of Statutes shall substitute the term "Department" for the term "Office" everywhere that term appears in Subchapters II and III of Chapter 7B of the General Statutes.

PART III. CONFORMING CHANGES TO THE GENERAL STATUTES.

Section 4.(a) G.S. 7A-302 reads as rewritten:

"*§ 7A-302. Counties and municipalities responsible for physical facilities.*

In each county in which a district court has been established, courtrooms, office space for juvenile court counselors and support staff as assigned by the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, and related judicial facilities (including furniture), as defined in this Subchapter, shall be provided by the county, except that courtrooms and related judicial facilities may, with the approval of the Administrative Officer of the Courts, after consultation with county and municipal authorities, be provided by a municipality in the county. To assist a county or municipality in meeting the expense of providing courtrooms and related judicial facilities, a part of the costs of court, known as the "facilities fee," collected for the State by the clerk of superior court, shall be remitted to the county or municipality providing the facilities."

Section 4.(b) G.S. 7A-343.1 reads as rewritten:

"*§ 7A-343.1. Distribution of copies of the appellate division reports.*

The Administrative Officer of the Courts shall, at the State's expense distribute such number of copies of the appellate division reports to federal, State departments and agencies, and to educational institutions of instruction, as follows:

Governor, Office of the	1
Lieutenant Governor, Office of the	1
Secretary of State, Department of the	2
State Auditor, Department of the	1
Treasurer, Department of the State	1
Superintendent of Public Instruction	1
Office of the Attorney General	11
State Bureau of Investigation	1
Agriculture and Consumer Services, Department of	1
Labor, Department of	1
Insurance, Department of	1
Budget Bureau, Department of Administration	1
Property Control, Department of Administration	1
State Planning, Department of Administration	1
Environment and Natural Resources, Department of	1
Revenue, Department of	1
Health and Human Services, Department of	1
~~Juvenile Justice, Office of~~	
Juvenile Justice and Delinquency Prevention, Department of	1
Commission for the Blind	1
Transportation, Department of	1
Motor Vehicles, Division of	1
Utilities Commission	8
Industrial Commission	11

State Personnel Commission	1
Office of State Personnel	1
Office of Administrative Hearings	2
Community Colleges, Department of	38
Employment Security Commission	1
Commission of Correction	1
Parole Commission	1
Archives and History, Division of	1
Crime Control and Public Safety, Department of	2
Cultural Resources, Department of	3
Legislative Building Library	2
Justices of the Supreme Court	1 ea.
Judges of the Court of Appeals	1 ea.
Judges of the Superior Court	1 ea.
Clerks of the Superior Court	1 ea.
District Attorneys	1 ea.
Emergency and Special Judges of the Superior Court	1 ea.
Supreme Court Library	AS MANY AS REQUESTED
Appellate Division Reporter	1
University of North Carolina, Chapel Hill	71
University of North Carolina, Charlotte	1
University of North Carolina, Greensboro	1
University of North Carolina, Asheville	1
North Carolina State University, Raleigh	1
Appalachian State University	1
East Carolina University	1
Fayetteville State University	1
North Carolina Central University	17
Western Carolina University	1
Duke University	17
Davidson College	2
Wake Forest University	25
Lenoir Rhyne College	1
Elon College	1
Campbell University	25
Federal, Out-of-State and Foreign Secretary of State	1
Secretary of Defense	1
Secretary of Health, Education and Welfare	1
Secretary of Housing and Urban Development	1
Secretary of Transportation	1
Attorney General	1
Department of Justice	1
Internal Revenue Service	1
Veterans' Administration	1
Library of Congress	5
Federal Judges resident in North Carolina	1 ea.
Marshal of the United States Supreme Court	1
Federal District Attorneys resident in North Carolina	1 ea.
Federal Clerks of Court resident in North Carolina	1 ea.

Supreme Court Library exchange list 1

Each justice of the Supreme Court and judge of the Court of Appeals shall receive for private use, one complete and up-to-date set of the appellate division reports. The copies of reports furnished each justice or judge as set out in the table above may be retained personally to enable the justice or judge to keep up-to-date the personal set of reports."

Section 4.(c) G.S. 14-316.1 reads as rewritten:

"*§ 14-316.1. Contributing to delinquency and neglect by parents and others.*

Any person who is at least 16 years old who knowingly or willfully causes, encourages, or aids any juvenile within the jurisdiction of the court to be in a place or condition, or to commit an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or neglected as defined by G.S. 7B-101 and G.S. 7B-1501 shall be guilty of a Class 1 misdemeanor.

It is not necessary for the district court exercising juvenile jurisdiction to make an adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order to prosecute a parent or any person, including an employee of the ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention under this section. An adjudication that a juvenile is delinquent, undisciplined, abused, or neglected shall not preclude a subsequent prosecution of a parent or any other person including an employee of the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, who contributes to the delinquent, undisciplined, abused, or neglected condition of any juvenile."

Section 4.(d) G.S. 17C-3(a), as amended by Section 17.3(b) of S.L. 2000-67, reads as rewritten:

"(a) There is established the North Carolina Criminal Justice Education and Training Standards Commission, hereinafter called "the Commission," in the Department of Justice. The Commission shall be composed of 25 members as follows:

(1) Police Chiefs. -- Three police chiefs selected by the North Carolina Association of Chiefs of Police and one police chief appointed by the Governor.

(2) Police Officers. -- Three police officials appointed by the North Carolina Police Executives Association and two criminal justice officers certified by the Commission as selected by the North Carolina Law-Enforcement Officers' Association.

(3) Departments. -- The Attorney General of the State of North Carolina; the Secretary of the Department of Crime Control and Public Safety; the President of the Department of Community Colleges.

(3a) A representative of the ~~Office of Juvenile Justice.~~ Department of Juvenile Justice and Delinquency Prevention.

(4) At-large Groups. -- One individual representing and appointed by each of the following organizations: one mayor selected by the League of Municipalities; one law-enforcement training officer selected by the North Carolina Law-Enforcement Training Officers' Association; one criminal justice professional selected by the North Carolina Criminal Justice Association; one sworn law-enforcement officer selected by the North State Law-Enforcement Officers' Association; one member selected by the North Carolina Law-Enforcement Women's Association; and one District Attorney selected by the North Carolina Association of District Attorneys.

(5) Citizens and Others. -- The President of The University of North Carolina; the Director of the Institute of Government; and two citizens, one of whom shall be selected by the Governor and one of whom shall be selected by the Attorney General. The General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-122. Appointments by the General Assembly shall serve two-year terms to conclude on June 30th in odd-numbered years."

Section 4.(e) G.S. 20-79.5(a) reads as rewritten:

"(a) Plates. -- The State government officials listed in this section are eligible for a special registration plate under G.S. 20-79.4. The plate shall bear the number designated in the following table for the position held by the official.

Position	Number on Plate
Governor	1
Lieutenant Governor	2
Speaker of the House of Representatives	3
President Pro Tempore of the Senate	4
Secretary of State	5
State Auditor	6
State Treasurer	7
Superintendent of Public Instruction	8
Attorney General	9
Commissioner of Agriculture	10
Commissioner of Labor	11
Commissioner of Insurance	12
Speaker Pro Tempore of the House	13
Legislative Services Officer	14
Secretary of Administration	15
Secretary of Environment and Natural Resources	16
Secretary of Revenue	17
Secretary of Health and Human Services	18
Secretary of Commerce	19

Secretary of Correction	20
Secretary of Cultural Resources	21
Secretary of Crime Control and Public Safety	22
Secretary of Juvenile Justice and Delinquency Prevention	23
Governor's Staff	~~23-29~~ 24-29
State Budget Officer	30
State Personnel Director	31
Advisory Budget Commission Nonlegislative Member	32-41
Chair of the State Board of Education	42
President of the U.N.C. System	43
Alcoholic Beverage Control Commission	44-46
Assistant Commissioners of Agriculture	47-48
Deputy Secretary of State	49
Deputy State Treasurer	50
Assistant State Treasurer	51
Deputy Commissioner for the Department of Labor	52
Chief Deputy for the Department of Insurance	53
Assistant Commissioner of Insurance	54
Deputies and Assistant to the Attorney General	55-65
Board of Economic Development Nonlegislative Member	66-88
State Ports Authority Nonlegislative Member	89-96
Utilities Commission Member	97-104
Post-Release Supervision and Parole Commission Member	105-109
State Board Member, Commission Member, or State Employee Not Named in List	110-200".

Section 4.(f) G.S. 66-58(b) reads as rewritten:

"(b) The provisions of subsection (a) of this section shall not apply to:

(1) Counties and municipalities.

(2) The Department of Health and Human Services or the Department of Agriculture and Consumer Services for the sale of serums, vaccines, and other like products.

(3) The Department of Administration, except that the agency shall not exceed the authority granted in the act creating the agency.

(4) The State hospitals for the mentally ill.

(5) The Department of Health and Human Services.

(6) The North Carolina School for the Blind at Raleigh.

(6a) The ~~Office of Juvenile Justice.~~ Department of Juvenile Justice and Delinquency Prevention.

(7) The North Carolina Schools for the Deaf.

(8) The Greater University of North Carolina with regard to its utilities and other services now operated by it nor to

the sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to classroom work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled students nor to the sale of meals or merchandise to persons attending meetings or conventions as invited guests nor to the operation by the University of North Carolina of an inn or hotel and dining and other facilities usually connected with a hotel or inn, nor to the hospital and Medical School of the University of North Carolina, nor to the Coliseum of North Carolina State University at Raleigh, and the other schools and colleges for higher education maintained or supported by the State, nor to the Centennial Campus of North Carolina State University at Raleigh, nor to the Horace Williams Campus of the University of North Carolina at Chapel Hill, nor to the comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of the University of North Carolina.

(9) The Department of Environment and Natural Resources, except that the Department shall not construct, maintain, operate or lease a hotel or tourist inn in any park over which it has jurisdiction. The North Carolina Wildlife Resources Commission may sell wildlife memorabilia as a service to members of the public interested in wildlife conservation.

(10) Child-caring institutions or orphanages receiving State aid.

(11) Highlands School in Macon County.

(12) The North Carolina State Fair.

(13) Rural electric memberships corporations.

(13a) State Farm Operations Commission.

(13b) The Department of Agriculture and Consumer Services with regard to its lessees at farmers' markets operated by the Department.

(13c) The Western North Carolina Agricultural Center.

(13d) Agricultural centers or livestock facilities operated by the Department of Agriculture and Consumer Services.

(14) Nothing herein contained shall be construed to prohibit the engagement in any of the activities described in subsection (a) hereof by a firm, corporation or person who or which is a lessee of space only of the State of North Carolina or any of its departments or agencies; provided the leases shall be awarded by the Department of

Administration to the highest bidder, as provided by law in the case of State contracts and which lease shall be for a term of not less than one year and not more than five years.

(15) The State Department of Correction is authorized to purchase and install automobile license tag plant equipment for the purpose of manufacturing license tags for the State and local governments and for such other purposes as the Department may direct.

The Commissioner of Motor Vehicles, or such other authority as may exercise the authority to purchase automobile license tags is hereby directed to purchase from, and to contract with, the State Department of Correction for the State automobile license tag requirements from year to year.

The price to be paid to the State Department of Correction for the tags shall be fixed and agreed upon by the Governor, the State Department of Correction, and the Motor Vehicle Commissioner, or such authority as may be authorized to purchase the supplies.

(16) Laundry services performed by the Department of Correction may be provided only for agencies and instrumentalities of the State which are supported by State funds and for county or municipally controlled and supported hospitals presently being served by the Department of Correction, or for which services have been contracted or applied for in writing, as of May 22, 1973. In addition to the prior sentence, laundry services performed by the Department of Correction may be provided for the Governor Morehead School and the North Carolina School for the Deaf.

The services shall be limited to wet-washing, drying and ironing of flatwear or flat goods such as towels, sheets and bedding, linens and those uniforms prescribed for wear by the institutions and further limited to only flat goods or apparel owned, distributed or controlled entirely by the institutions and shall not include processing by any dry-cleaning methods; provided, however, those garments and items presently being serviced by wet-washing, drying and ironing may in the future, at the election of the Department of Correction, be processed by a dry-cleaning method.

(17) The North Carolina Global TransPark Authority or a lessee of the Authority.

(18) The activities and products of private enterprise carried on or manufactured within a State prison facility under G.S. 148-70.

(19) The North Carolina Justice Academy.

(20) The Department of Transportation, or any nonprofit lessee of the Department, for the sale of books, crafts, gifts, and other tourism-related items at visitor centers owned by the Department."

Section 4.(g) G.S. 66-58(c)(7) reads as rewritten:

"(7) The operation by penal, correctional or facilities operated by the Department of Health and Human Services, the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, or by the Department of Agriculture and Consumer Services, of dining rooms for the inmates or clients or members of the staff while on duty and for the accommodation of persons visiting the inmates or clients, and other bona fide visitors."

Section 4.(h) G.S. 114-19.6 reads as rewritten:

"*§ 114-19.6. Criminal history record checks of employees of and applicants for employment with the Department of Health and Human Services, and the ~~Office of Juvenile Justice.~~ Department of Juvenile Justice and Delinquency Prevention.*

(a) Definitions. -- As used in this section, the term:

(1) "Covered person" means:

a. An applicant for employment or a current employee in a position in the Department of Health and Human Services or the ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention who provides direct care for a client, patient, student, resident or ward of the Department; or

b. Supervises positions providing direct care as outlined in sub-subdivision a. of this subdivision.

(2) "Criminal history" means a State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for employment in the Department of Health and Human Services or the ~~Office of Juvenile Justice.~~ Department of Juvenile Justice and Delinquency Prevention. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses

Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) When requested by the Department of Health and Human Services or the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, the North Carolina Department of Justice may provide to the ~~Department or Office~~ requesting department a covered person's criminal history from the State Repository of Criminal Histories. Such requests shall not be due to a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history record check only, the ~~Department or Office~~ requesting department shall provide to the Department of Justice a form consenting to the check signed by the covered person to be checked and any additional information required by the Department of Justice. National criminal record checks are authorized for covered applicants who have not resided in the State of North Carolina during the past five years. For national checks the Department ~~or Office~~ of Health and Human Services or the Department of Juvenile Justice and Delinquency Prevention shall provide to the North Carolina Department of Justice the fingerprints of the covered person to be checked, any additional information required by the Department of Justice, and a form signed by the covered person to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Health and Human Services and the ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention shall keep all information under this section confidential. The Department of Justice shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

(c) All releases of criminal history information to the Department of Health and Human Services or the ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention shall be

subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Division of Criminal Information. All of the information ~~the Department or Office~~ either department receives through the checking of the criminal history is privileged information and for the exclusive use of ~~the Department or Office.~~ that department.

(d) If the covered person's verified criminal history record check reveals one or more convictions covered under subsection (a) of this section, then the conviction shall constitute just cause for not selecting the person for employment, or for dismissing the person from current employment with the Department of Health and Human Services or the ~~Office of Juvenile Justice.~~ Department of Juvenile Justice and Delinquency Prevention. The conviction shall not automatically prohibit employment; however, the following factors shall be considered by the Department ~~or Office~~ of Health and Human Services or the Department of Juvenile Justice and Delinquency Prevention in determining whether employment shall be denied:

(1) The level and seriousness of the crime;
(2) The date of the crime;
(3) The age of the person at the time of the conviction;
(4) The circumstances surrounding the commission of the crime, if known;
(5) The nexus between the criminal conduct of the person and job duties of the person;
(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
(7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The Department of Health and Human Services and the ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention may deny employment to or dismiss a covered person who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(f) The Department of Health and Human Services and the ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention may extend a conditional offer of employment pending the results of a criminal history record check authorized by this section."

Section 4.(i) G.S. 114-21(b) reads as rewritten:

"(b) The ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention shall ensure that all juvenile court counselors and other Division personnel receive the minority sensitivity training specified in subsection (a) of this section."

Section 4.(j) G.S. 115C-110 reads as rewritten:

"§ *115C-110. Services mandatory; single-agency responsibility; State and local plans; census and registration.*

(a) The Board shall cause to be provided by all local school administrative units and by all other State and local governmental agencies providing special education services or having children with special needs in their care, custody, management, jurisdiction, control, or programs, special education and related services appropriate to all children with special needs. In this regard, all local school administrative units and all other State and local governmental agencies providing special education and related services shall explore available local resources and determine whether the services are currently being offered by an existing public or private agency.

When a specified special education or related service is being offered by a local public or private resource, any unit or agency described above shall negotiate for the purchase of that service or shall present full consideration of alternatives and its recommendations to the Board. In this regard, a new or additional program for special education or related services shall be developed with the approval of the Board only when that service is not being provided by existing public or private resources or the service cannot be purchased from existing providers. Further, the Board shall support and encourage joint and collaborative special education planning and programming at local levels to include local administrative units and the programs and agencies of the Departments of Health and Human ~~Services and Correction and the Office of Juvenile Justice.~~ Services, Correction, and Juvenile Justice and Delinquency Prevention.

The jurisdiction of the Board with respect to the design and content of special education programs or related services for children with special needs extends to and over the Department of Health and Human Services, the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, and the Department of Correction.

All provisions of this Article that are specifically applicable to local school administrative units also are applicable to the Department of Health and Human Services, the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, and the Department of Correction and their divisions and agencies; all duties, responsibilities, rights and privileges specifically imposed on or granted to local school administrative units by this Article also are imposed on or granted to the Department of Health and Human Services, the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, and the Department of Correction and their divisions and agencies. However, with respect to children with special needs who are residents or patients of any state-operated or state-supported residential treatment facility, including without limitation, a school for the deaf, school for the blind, mental hospital or center, mental retardation center, or in a facility operated by the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, the Department of Correction or any of its divisions and agencies, the Board shall have the power to contract with the Department of Health and Human Services, the ~~Office of Juvenile~~

~~Justice,~~ Department of Juvenile Justice and Delinquency Prevention, and the Department of Correction for the provision of special education and related services and the power to review, revise and approve any plans for special education and related services to those residents.

The Departments of Health and Human ~~Services and Correction and the Office of Juvenile Justice~~ Services, Correction, and Juvenile Justice and Delinquency Prevention shall submit to the Board their plans for the education of children with special needs in their care, custody, or control. The Board shall have general supervision and shall set standards, by rule or regulation, for the programs of special education to be administered by it, by local educational agencies, and by the Departments of Health and Human ~~Services and Correction and the Office of Juvenile Justice.~~ Services, Correction, and Juvenile Justice and Delinquency Prevention. The Board may grant specific exemptions for programs administered by the Department of Health and Human Services, the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, or the Department of Correction when compliance by them with the Board's standards would, in the Board's judgment, impose undue hardship on this ~~Department or Office~~ department and when other procedural due process requirements, substantially equivalent to those of G.S. 115C-116, are assured in programs of special education and related services furnished to children with special needs served by this ~~Department or Office.~~ department. Further, the Board shall recognize that inpatient and residential special education programs within the Departments of Health and Human ~~Services and Correction and the Office of Juvenile Justice~~ Services, Correction, and Juvenile Justice and Delinquency Prevention may require more program resources than those necessary for optimal operation of these programs in local school administrative units.

Every State and local department, division, unit or agency covered by this section is hereinafter referred to as a "local educational agency" unless the text of this Article otherwise provides.

(b) The Board shall make and keep current a plan for the implementation of the policy set forth in G.S. 115C-106(b). The plan shall include:

(1) A census of the children with special needs in the State, as required by subsection (j) of this section;
(2) A procedure for diagnosis and evaluation of each child;
(3) An inventory of the personnel and facilities available to provide special education for these children;
(4) An analysis of the present distribution of responsibility for special education between State and local educational agencies, together with recommendations for any necessary or desirable changes in the distribution of responsibilities;
(5) Standards for the education of children with special needs;

(6) Programs and procedures for the development and implementation of a comprehensive system of personnel development; and

(7) Any additional matters, including recommendations for amendment of laws, changes in administrative regulations, rules and practices and patterns of special organization, and changes in levels and patterns of education financial support.

(c) The Board shall annually submit amendments to or revisions of the plan required by subsection (b) to the Governor and General Assembly and make it available for public comment under subdivision (1) and for public distribution no less than 30 days before January 15 of each year. All such submissions shall set forth in detail the progress made in the implementation of the plan.

(d) The Board shall adopt rules covering:

(1) The qualifications of and standards for certification of teachers, teacher assistants, speech clinicians, school psychologists, and others involved in the education and training of children with special needs;

(2) Minimum standards for the individualized educational program for all children with special needs other than for the pregnant children, and for the educational program for the pregnant children, who receive special education and related services; and

(3) Any other rules as may be necessary or appropriate for carrying out the purposes of this Article. Representatives from the Departments of Health and Human ~~Services and Correction and the Office of Juvenile Justice~~ Services, Correction, and Juvenile Justice and Delinquency Prevention shall be involved in the development of the standards outlined under this subsection.

(e) On or before October 15, each local educational agency shall report annually to the Board the extent to which it is then providing special education for children with special needs. The annual report also shall detail the means by which the local educational agency proposes to secure full compliance with the policy of this Article, including the following:

(1) A statement of the extent to which the required education and services will be provided directly by the agency;

(2) A statement of the extent to which standards in force under G.S. 115C-110(b)(5) and (d)(2) are being met by the agency; and

(3) The means by which the agency will contract to provide, at levels meeting standards in force under G.S. 115C-110(b)(5) and (d)(2), all special education and related services not provided directly by it or by the State.

(f) After submitting the report required by subsection (e), the local educational agency also shall submit such supplemental and additional reports as the Board may require to keep the local educational agency's plan current.

(g) By rule, the Board shall prescribe due dates not later than October 15 of each year, and all other necessary or appropriate matters relating to these annual and supplemental and additional reports.

(h) The annual report shall be a two-year plan for providing appropriate special education and related services to children with special needs. The agency shall submit the plan to the Board for its review, approval, modification, or disapproval. Unless thereafter modified with approval of the Board, the plan shall be adhered to by the local educational agency. The procedure for approving, disapproving, establishing, and enforcing the plan shall be the same as that set forth for the annual plan. The long-range plan shall include such provisions as may be appropriate for the following, without limitation:

(1) Establishment of classes, other programs of instruction, curricula, facilities, equipment, and special services for children with special needs; and

(2) Utilization and professional development of teachers and other personnel working with children with special needs.

(i) Each local educational agency shall provide free appropriate special education and related services in accordance with the provisions of this Article for all children with special needs who are residents of, or whose parents or guardians are residents of, the agency's district, beginning with children aged five. No matriculation or tuition fees or other fees or charges shall be required or asked of children with special needs or their parents or guardians except those fees or charges as are required uniformly of all public school pupils. The provision of free appropriate special education within the facilities of the Department of Health and Human Services and the ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention shall not prevent that ~~Department and Office~~ department from charging for other services or treatment.

(j) The Board shall require an annual census of children with special needs, subdivided for "identified" and "suspected" children with special needs, to be taken in each school year. Suspected children are those in the formal process of being identified, evaluated or diagnosed as children with special needs. The census shall be conducted annually and shall be completed not later than October 15, and shall be submitted to the Governor and General Assembly and be made available to the public no later than January 15 annually.

In taking the census, the Board shall require the cooperation, participation, and assistance of all local educational agencies and all other State and local governmental departments and agencies providing or required to provide special education services to children with special needs, and those departments and agencies shall cooperate and participate with and assist the Board in conducting the census.

The census shall include the number of children identified and suspected with special needs, their age, the nature of their disability, their county or city of residence, their local school administrative unit

residence, whether they are being provided special educational or related services and if so by what department or agency, whether they are not being provided special education or related services, the identity of each department or agency having children with special needs in its care, custody, management, jurisdiction, control, or programs, the number of children with special needs being served by each department or agency, and such other information or data as the Board shall require. The census shall be of children with special needs between the ages of three and 21, inclusive.

(k) The Department shall monitor the effectiveness of individualized education programs in meeting the educational needs of all children with special needs other than pregnant children, and of educational programs in meeting the educational needs of the pregnant children.

(l) The Board shall provide for procedures assuring that in carrying out the requirements of this Article procedures are established for consultation with individuals involved in or concerned with the education of children with special needs, including parents or guardians of such children, and there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to the adoption of the policies, procedures, and rules or regulations required by this Article.

(m) Children with special needs shall be educated in the least restrictive appropriate setting, as defined by the State Board of Education."

Section 4.(k) G.S. 115C-111 reads as rewritten:

"*§ 115C-111. Free appropriate education for all children with special needs.*

No child with special needs between the ages specified by G.S. 115C-109 shall be denied a free appropriate public education or be prevented from attending the public schools of the local educational agency in which he or his parents or legal guardian resides or from which he receives services or from attending any other public program of free appropriate public education because he is a child with special needs. If it appears that a child should receive a program of free appropriate public education in a program operated by or under the supervision of the Department of Health and Human Services or the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, the local educational agency shall confer with the appropriate Department of Health and Human Services or ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention staff for their participation and determination of the appropriateness of placement in said program and development of the child's individualized education program. The individualized education program may then be challenged under the due process provisions of G.S. 115C-116. Every child with special needs shall be entitled to attend these nonresidential schools or programs and receive from them free appropriate public education."

Section 4.(l) G.S. 115C-113(f) reads as rewritten:

"(f) Each local educational agency shall prepare individualized educational programs for all children found to be children with special needs other than the pregnant children, and educational programs prescribed in subsection (h) of this section for the pregnant children. The individualized educational program shall be developed in conformity with Public Law 94-142 and the implementing regulations issued by the United States Department of Education and shall be implemented in conformity with timeliness set by that Department. The term 'individualized educational program' means a written statement for each such child developed in any meeting by a representative of the local educational agency who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of such children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall be based on rules developed by the Board. Each local educational agency shall establish, or revise, whichever is appropriate, the individualized educational program of each child with special needs each school year and will then review and, if appropriate revise, its provisions periodically, but not less than annually. In the facilities and programs of the Department of Health and Human Services and the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, the individualized educational program shall be planned in collaboration with those other individuals responsible for the design of the total treatment or habilitation plan or both; the resulting educational, treatment, and habilitation plans shall be coordinated, integrated, and internally consistent."

Section 4.(m) G.S. 115C-113.1 reads as rewritten:

"§ *115C-113.1. Surrogate parents.*

In the case of a child whose parent or guardian is unknown, whose whereabouts cannot be determined after reasonable investigation, or who is a ward of the State, the local educational agency shall appoint a surrogate parent for the child. The surrogate parent shall be appointed from a group of persons approved by the Superintendent of Public Instruction, the Secretary of Health and Human Services, and the ~~Office of Juvenile Justice,~~ Secretary of Juvenile Justice and Delinquency Prevention, but in no case shall the person appointed be an employee of the local educational agency or directly involved in the education or care of the child. The Superintendent shall ensure that local educational agencies appoint a surrogate parent for every child in need of a surrogate parent."

Section 4.(n) G.S. 115C-115 reads as rewritten:

"§ *115C-115. Placements in private schools, out-of-state schools and schools in other local educational agencies.*

The board shall adopt rules and regulations to assure that:

(1) There be no cost to the parents or guardian for the placement of a child in a private school, out-of-state school or a school in another local education agency if the child was so placed by the Board or by the appropriate local educational agency as the means of carrying out the

requirement of this Article or any other applicable law requiring the provision of special education and related services to children within the State.

(2) No child shall be placed by the Board or by the local educational agency in a private or out-of-state school unless the Board has determined that the school meets standards that apply to State and local educational agencies and that the child so placed will have all the rights he would have if served by a State or local educational agency.

(3) If the placement of the child in a private school, out-of-state school or a school in another local educational agency determined by the Superintendent of Public Instruction to be the most cost-effective way to provide an appropriate education to that child and the child is not currently being educated by the Department of Health and Human Services, the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, or the Department of Correction, the State will bear a portion of the cost of the placement of the child. The local school administrative unit shall pay an amount equal to what it receives per pupil from the State Public School Fund and from other State and federal funds for children with special needs for that child. The State shall pay the full cost of any remainder up to a maximum of fifty percent (50%) of the total cost."

Section 4.(o) G.S. 115C-121(b) reads as rewritten:

"(b) The Council shall consist of 23 members to be appointed as follows: five ex officio members; two members appointed by the Governor; two members of the Senate appointed by the President Pro Tempore; two members of the House of Representatives appointed by the Speaker of the House; and 12 members appointed by the State Board of Education. Of those members of the Council appointed by the State Board one member shall be selected from each congressional district within the State, and the members so selected shall be composed of at least one person representing each of the following: handicapped individuals, parents or guardians of children with special needs, teachers of children with special needs, and State and local education officials and administrators of programs for children with special needs. The Council shall designate a chairperson from among its members. The designation of the chairperson is subject to the approval of the State Board of Education. The board shall promulgate rules or regulations to carry out this subsection.

Ex officio members of the Council shall be the following:

(1) The Secretary of the Department of Health and Human Services or the Secretary's designee;

(1a) A representative of the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, appointed by the Governor;

(2) The Secretary of the Department of Correction or the Secretary's designee;

(3) A representative from The University of North Carolina Planning Consortium for Children with Special Needs; and

(4) The Superintendent of Public Instruction or the Superintendent's designee.

The term of appointment for all members except those appointed by the State Board of Education shall be for two years. The term for members appointed by the State Board of Education shall be for four years. No person shall serve more than two consecutive four-year terms. The initial term of office of the person appointed from the 12th Congressional District shall commence on January 3, 1993, and expire on June 30, 1996.

Each Council member shall serve without pay, but shall receive travel allowances and per diem in the same amount provided for members of the North Carolina General Assembly."

Section 4.(p) G.S. 115C-139(a) reads as rewritten:

"(a) The Board, any two or more local educational agencies and any such agency and any State department, agency, or division having responsibility for the education, treatment or habilitation of children with special needs are authorized to enter into interlocal cooperation undertakings under the provisions of Chapter 160A, Article 20, Part 1 of the General Statutes or into undertakings with a State agency such as the ~~Office of Juvenile Justice or the~~ Departments of Public Instruction, Health and Human Services, Juvenile Justice and Delinquency Prevention, or Correction, or their divisions, agencies, or units, for the purpose of providing for the special education and related services, treatment or habilitation of such children within the jurisdiction of the agency or unit, and shall do so when it itself is unable to provide the appropriate public special education or related services for these children. In entering into such undertakings, the local agency and State department, agency, or division shall also contract to provide the special education or related services that are most educationally appropriate to the children with special needs for whose benefit the undertaking is made, and provide these services by or in the local agency unit or State department, agency, or division located in the place most convenient to these children."

Section 4.(q) G.S. 115C-250(a) reads as rewritten:

"(a) The State Board of Education and local boards of education may expend public funds for transportation of handicapped children with special needs who are unable because of their handicap to ride the regular school buses and who have been placed in programs by a local school board as a part of its duty to provide such children with a free appropriate education, including its duty under G.S. 115C-115. At the option of the local board of education with the concurrence of the State Board of Education, funds appropriated to the State Board of Education for contract transportation of exceptional children may be used to purchase buses and minibuses as well as for the purposes authorized in the budget. The State Board of Education shall adopt rules and regulations concerning the construction and equipment of these buses and minibuses.

The ~~Department~~ Departments of Health and Human Services, ~~the Office of Juvenile Justice, and the Department of~~ Juvenile Justice and Delinquency Prevention, and Correction may also expend public funds for transportation of handicapped children with special needs who are unable because of their handicap to ride the regular school buses and who have been placed in programs by one of these agencies as a part of that agency's duty to provide such children with a free appropriate public education.

If a local area mental health center places a child with special needs in an educational program, the local area mental health center shall pay for the transportation of the child, if handicapped and unable because of the handicap to ride the regular school buses, to the program."

Section 4.(r) G.S. 115C-325(p) reads as rewritten:

"(p) Section Applicable to Certain Institutions. -- Notwithstanding any law or regulation to the contrary, this section shall apply to all persons employed in teaching and related educational classes in the schools and institutions of the Departments of Health and Human ~~Services and Correction or the Office of Juvenile Justice~~ Services, Correction, or Juvenile Justice and Delinquency Prevention regardless of the age of the students."

Section 4.(s) G.S. 115D-1 reads as rewritten:

"*§ 115D-1. Statement of purpose.*

The purposes of this Chapter are to provide for the establishment, organization, and administration of a system of educational institutions throughout the State offering courses of instruction in one or more of the general areas of two-year college parallel, technical, vocational, and adult education programs, to serve as a legislative charter for such institutions, and to authorize the levying of local taxes and the issuing of local bonds for the support thereof. The major purpose of each and every institution operating under the provisions of this Chapter shall be and shall continue to be the offering of vocational and technical education and training, and of basic, high school level, academic education needed in order to profit from vocational and technical education, for students who are high school graduates or who are beyond the compulsory age limit of the public school system and who have left the public schools, provided, juveniles of any age committed to the ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention by a court of competent jurisdiction may, if approved by the director of the training school to which they are assigned, take courses offered by institutions of the system if they are otherwise qualified for admission."

Section 4.(t) G.S. 115D-5(b) reads as rewritten:

"(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking

any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; provided, however, that the State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate, for training courses for volunteer firemen, local fire department personnel, volunteer rescue and lifesaving department personnel, local rescue and lifesaving department personnel, Radio Emergency Associated Citizens Team (REACT) members when the REACT team is under contract to a county as an emergency response agency, local law-enforcement officers, patients in State alcoholic rehabilitation centers, all full-time custodial employees of the Department of Correction, employees of the Department's Division of Adult Probation and Parole and employees of the ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission, trainees enrolled in courses conducted under the New and Expanding Industry Program, clients of sheltered workshops, clients of adult developmental activity programs, students in Health and Human Services Development Programs, juveniles of any age committed to the ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention by a court of competent jurisdiction, prison inmates, and members of the North Carolina State Defense Militia as defined in G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the General Statutes. Provided further, tuition shall be waived for senior citizens attending institutions operating under this Chapter as set forth in Chapter 115B of the General Statutes, Tuition Waiver for Senior Citizens. Provided further, tuition shall also be waived for all courses taken by high school students at community colleges in accordance with G.S. 115D-20(4) and this section."

Section 4.(u) G.S. 120-216 reads as rewritten:

"*§ 120-216. Commission duties.*

The Commission shall have the following duties:

(1) Study the needs of children and youth. This study shall include, but is not limited to:

a. Determining the adequacy and appropriateness of services:

1. To children and youth receiving child welfare services;
2. To children and youth in the juvenile court system; and
3. Provided by the Division of Social Services and the ~~Office of Juvenile Justice.~~ Department of Juvenile Justice and Delinquency Prevention.

b. Developing methods for identifying and providing services to children and youth not receiving but in need of child welfare services, children and youth at risk of entering the juvenile court system, and children and youth exposed to domestic violence situations.
c. Developing strategies for addressing the issues of school dropout, teen suicide, and adolescent pregnancy.
d. Identifying and evaluating the impact on children and youth of other economic and environmental issues.
e. Identifying obstacles to ensuring that children who are in secure or nonsecure custody are placed in safe and permanent homes within a reasonable period of time and recommending strategies for overcoming those obstacles. The Commission shall consider what, if anything, can be done to expedite the adjudication and appeal of abuse and neglect charges against parents so that decisions may be made about the safe and permanent placement of their children as quickly as possible.

(2) Evaluate problems associated with juveniles who are beyond the disciplinary control of their parents, including juveniles who are runaways, and develop solutions for addressing the problems of those juveniles.
(3) Identify strategies for the development and funding of a comprehensive statewide database relating to children and youth to facilitate State agency planning for delivery of services to children and youth.
(4) Conduct any other studies, evaluations, or assessments necessary for the Commission to carry out its purpose."

Section 4.(v) G.S. 122C-113(b1) reads as rewritten:

"(b1) The Secretary shall cooperate with the State Board of Education and the ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention in coordinating the responsibilities of the Department of Health and Human Services, the State Board of Education, the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, and the Department of Public Instruction for adolescent substance abuse programs. The Department of Health and Human Services, through its Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in cooperation with the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, shall be responsible for intervention and treatment in non-school based programs. The State Board of Education and the Department of Public Instruction, in consultation with the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, shall have primary responsibility for in-school education, identification, and intervention services, including student assistance programs."

Section 4.(w) G.S. 122C-117(a) reads as rewritten:

"(a) The area authority shall:

(1) Engage in comprehensive planning, budgeting, implementing, and monitoring of community-based mental health, developmental disabilities, and substance abuse services;
(2) Provide services to clients in the catchment area, including clients committed to the custody of the ~~Office of Juvenile Justice;~~ Department of Juvenile Justice and Delinquency Prevention;
(3) Determine the needs of the area authority's clients and coordinate with the Secretary and with the ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention the provision of services to clients through area and State facilities;
(4) Develop plans and budgets for the area authority subject to the approval of the Secretary;
(5) Assure that the services provided by the area authority meet the rules of the Commission and Secretary;
(6) Comply with federal requirements as a condition of receipt of federal grants; and
(7) Appoint an area director, chosen through a search committee on which the Secretary of the Department of Health and Human Services or the Secretary's designee serves as a nonvoting member."

Section 4.(x) G.S. 143-138(g) reads as rewritten:

"(g) Publication and Distribution of Code. -- The Building Code Council shall cause to be printed, after adoption by the Council, the North Carolina State Building Code and each amendment thereto. It shall, at the State's expense, distribute copies of the Code and each amendment to State and local governmental officials, departments, agencies, and educational institutions, as is set out in the table below. (Those marked by an asterisk will receive copies only on written request to the Council.)

OFFICIAL OR AGENCY	NUMBER OF COPIES
State Departments and Officials	
Governor	1
Lieutenant Governor	1
Auditor	1
Treasurer	1
Secretary of State	1
Superintendent of Public Instruction	1
Attorney General (Library)	1
Commissioner of Agriculture	1
Commissioner of Labor	1
Commissioner of Insurance	1
Department of Environment and Natural Resources	1
Department of Health and Human Services	1
~~Office of Juvenile Justice~~	
Department of Juvenile Justice and	

Delinquency Prevention	1
Board of Transportation	1
Utilities Commission	1
Department of Administration	1
Clerk of the Supreme Court	1
Clerk of the Court of Appeals	1
Clerk of the Superior Court	1 each
Department of Cultural Resources [State Library]	5
Supreme Court Library	2
Legislative Library	1
Schools	
All state-supported colleges and universities in the State of North Carolina	*1 each
Local Officials	
Clerks of the Superior Courts	1 each
Chief Building Inspector of each incorporated municipality or county	1

In addition, the Building Code Council shall make additional copies available at such price as it shall deem reasonable to members of the general public."

Section 4.(y) G.S. 143-166.2(d) reads as rewritten:

"(d) The term 'law-enforcement officer,' 'officer,' or 'fireman' shall mean all law-enforcement officers employed full time by the State of North Carolina or any county or municipality thereof and all full-time custodial employees of the North Carolina Department of Correction and all full-time institutional and detention employees of the ~~Division of Youth Services of the Department of Health and Human Services.~~ Department of Juvenile Justice and Delinquency Prevention. The term 'firemen' shall mean both 'eligible fireman'; or 'fireman' as defined in G.S. 58-86-25 and all full-time, permanent part-time and temporary employees of the North Carolina Division of Forest Resources, Department of Environment and Natural Resources, during the time they are actively engaged in fire-fighting activities; and shall mean all full-time employees of the North Carolina Department of Insurance during the time they are actively engaged in fire-fighting activities, during the time they are training fire fighters or rescue squad workers, and during the time they are engaged in activities as members of the State Emergency Response Team, when the Team has been activated. The term 'rescue squad worker' shall mean a person who is dedicated to the purpose of alleviating human suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care or emergency medical services. In addition, this person must belong to an organized rescue squad which is eligible for membership in the North Carolina Association of Rescue Squads, Inc., and the person must have attended a minimum of 36 hours of training and meetings in the last calendar year. Each rescue squad belonging to the North Carolina Association of Rescue Squads, Inc., must file a roster of those

members meeting the above requirements with the State Treasurer on or about January 1 of each year, and this roster must be certified to by the secretary of said association. In addition, the term 'rescue squad worker' shall mean a member of an ambulance service certified by the Department of Health and Human Services under Article 7 of Chapter 131E of the General Statutes. The Department of Health and Human Services shall furnish a list of ambulance service members to the State Treasurer on or about January 1 of each year. The term 'Civil Air Patrol members' shall mean those senior members of the North Carolina Wing-Civil Air Patrol 18 years of age or older and currently certified under G.S. 143B-491(a). The term 'fireman' shall also mean county fire marshals when engaged in the performance of their county duties. The term 'rescue squad worker' shall also mean county emergency services coordinators when engaged in the performance of their county duties."

Section 4.(z) G.S. 143B-150.5(d) reads as rewritten:

"(d) The Secretary of the Department of Health and Human Services shall ensure the cooperation of the Division of Social Services, ~~the Division of Youth Services,~~ the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Division of Medical Assistance, in carrying out the provisions of this Part."

Section 4.(aa) G.S. 143B-150.7(b) reads as rewritten:

"(b) The Committee shall have 24 members appointed for staggered four-year terms and until their successors are appointed and qualify. The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of G.S. 143B-13. Members may succeed themselves for one term and may be appointed again after being off the Committee for one term. Six of the members shall be legislators appointed by the General Assembly, three of whom shall be recommended by the Speaker of the House of Representatives, and three of whom shall be recommended by the President Pro Tempore of the Senate. Two of the members shall be appointed by the General Assembly from the public at large, one of whom shall be recommended by the Speaker of the House of Representatives, and one of whom shall be recommended by the President Pro Tempore of the Senate. The remainder of the members shall be appointed by the Governor as follows:

(1) Four members representing the Department of Health and Human Services, one of whom shall be the Assistant Secretary for Children and Family, one of whom shall represent the Division of Social Services, one of whom shall represent the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, and one of whom shall represent the Division of Maternal and Child Health;

(1a) One member representing the ~~Office of Juvenile Justice;~~ Department of Juvenile Justice and Delinquency Prevention;

(2) Two members, one from each of the following: the Administrative Office of the Courts and the Department of Public Instruction;

(3) One member who represents the Juvenile Justice Planning Committee of the Governor's Crime Commission, and one member appointed at large;

(4) One member who is a district court judge certified by the Administrative Office of the Courts to hear juvenile cases;

(5) One member representing the schools of social work of The University of North Carolina;

(6) Two members, one of whom is a provider of family preservation services, and one of whom is a consumer of family preservation services; and

(7) Three members who represent county-level associations; one of whom represents the Association of County Commissioners, one of whom represents the Association of Directors of Social Services, and one of whom represents the North Carolina Council of Mental Health, Developmental Disabilities, and Substance Abuse Services.

The Secretary of the Department of Health and Human Services shall serve as the Chair of the Committee. The Secretary shall appoint the cochair of the Committee for a two-year term on a rotating basis from among the Committee members who represent the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services."

Section 4.(bb) G.S. 143B-152.6 reads as rewritten:

"*§ 143B-152.6. Cooperation of State and local agencies.*

All agencies of the State and local government, including the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, departments of social services, health departments, local mental health, mental retardation, and substance abuse authorities, court personnel, law enforcement agencies, The University of North Carolina, the community college system, and cities and counties, shall cooperate with the Department of Health and Human Services, and local nonprofit corporations that receive grants in coordinating the program at the State level and in implementing the program at the local level. The Secretary of Health and Human Services, after consultation with the Superintendent of Public Instruction, shall develop a plan for ensuring the cooperation of State agencies and local agencies, and encouraging the cooperation of private entities, especially those receiving State funds, in the coordination and implementation of the program."

Section 4.(cc) G.S. 143B-152.14 reads as rewritten:

"*§ 143B-152.14. Cooperation of State and local agencies.*

All agencies of the State and local government, including the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, departments of social services, health departments, local

mental health, mental retardation, and substance abuse authorities, court personnel, law enforcement agencies, The University of North Carolina, the community college system, and cities and counties, shall cooperate with the Department of Health and Human Services, and local nonprofit corporations that receive grants in coordinating the program at the State level and in implementing the program at the local level. The Secretary of Health and Human Services, after consultation with the Superintendent of Public Instruction, shall develop a plan for ensuring the cooperation of State agencies and local agencies and encouraging the cooperation of private entities, especially those receiving State funds, in the coordination and implementation of the program."

Section 4.(dd) G.S. 143B-153(2) reads as rewritten:

"(2) The Social Services Commission shall have the power and duty to establish standards and adopt rules and regulations:

a. For the programs of public assistance established by federal legislation and by Article 2 of Chapter 108A of the General Statutes of the State of North Carolina with the exception of the program of medical assistance established by G.S. 108A-25(b);

b. To achieve maximum cooperation with other agencies of the State and with agencies of other states and of the federal government in rendering services to strengthen and maintain family life and to help recipients of public assistance obtain self-support and self-care;

c. For the placement and supervision of dependent juveniles and of delinquent juveniles who are placed in the custody of the Office of Juvenile Justice, and payment of necessary costs of foster home care for needy and homeless children as provided by G.S. 108A-48; ~~and~~

d. For the payment of State funds to private child-placing agencies as defined in G.S. 131D-10.2(4) and residential child care facilities as defined in G.S. 131D-10.2(13) for care and services provided to children who are in the custody or placement responsibility of a county department of social ~~services.~~ services; and

e. For client assessment and independent case management pertaining to the functions of county departments of social services for public assistance programs authorized under paragraph a. of this subdivision."

Section 4.(ee) G.S. 143B-478 reads as rewritten:

"*§ 143B-478. Governor's Crime Commission -- creation; composition; terms; meetings, etc.*

(a) There is hereby created the Governor's Crime Commission of the Department of Crime Control and Public Safety. The Commission shall consist of 36 voting members and six nonvoting members. The composition of the Commission shall be as follows:

(1) The voting members shall be:

a. The Governor, the Chief Justice of the Supreme Court of North Carolina (or his alternate), the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of the Department of Correction, the ~~Director of the Office of Juvenile Justice,~~ Secretary of the Department of Juvenile Justice and Delinquency Prevention, and the Superintendent of Public Instruction;

b. A judge of superior court, a judge of district court specializing in juvenile matters, a chief district court judge, a clerk of superior court, and a district attorney;

c. A defense attorney, three sheriffs (one of whom shall be from a 'high crime area'), three police executives (one of whom shall be from a 'high crime area'), six citizens (two with knowledge of juvenile delinquency and the public school system, two of whom shall be under the age of 21 at the time of their appointment, one representative of a 'private juvenile delinquency program,' and one in the discretion of the Governor), three county commissioners or county officials, and three mayors or municipal officials;

d. Two members of the North Carolina House of Representatives and two members of the North Carolina Senate.

(2) The nonvoting members shall be the Director of the State Bureau of Investigation, the Secretary of the Department of Crime Control and Public Safety, the Assistant Director of the Intervention/Prevention ~~Bureau of the Office of Juvenile Justice,~~ Division of the Department of Juvenile Justice and Delinquency Prevention, the Assistant Director of the Detention ~~Bureau of the Office of Juvenile Justice,~~ Division of the Department of Juvenile Justice and Delinquency Prevention, the Director of the Division of Prisons and the Director of the Division of Adult Probation and Paroles.

(b) The membership of the Commission shall be selected as follows:

(1) The following members shall serve by virtue of their office: the Governor, the Chief Justice of the Supreme Court, the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of the Department of Correction, the Director of the State Bureau of Investigation, the Secretary of the Department of Crime Control and Public Safety, the Director of the Division of Prisons, the Director of the Division of Adult Probation and Parole, the ~~Director of the Office of Juvenile Justice,~~ Secretary of the Department of Juvenile Justice and Delinquency Prevention, the Assistant Director of the Intervention/Prevention ~~Bureau~~

~~of the Office of Juvenile Justice,~~ Division of the Department of Juvenile Justice and Delinquency Prevention, the Assistant Director of the Detention ~~Bureau of the Office of Juvenile Justice,~~ Division of the Department of Juvenile Justice and Delinquency Prevention, and the Superintendent of Public Instruction. Should the Chief Justice of the Supreme Court choose not to serve, his alternate shall be selected by the Governor from a list submitted by the Chief Justice which list must contain no less than three nominees from the membership of the Supreme Court.

(2) The following members shall be appointed by the Governor: ~~the representative of the Office of Juvenile Justice,~~ the district attorney, the defense attorney, the three sheriffs, the three police executives, the six citizens, the three county commissioners or county officials, the three mayors or municipal officials.

(3) The following members shall be appointed by the Governor from a list submitted by the Chief Justice of the Supreme Court, which list shall contain no less than three nominees for each position and which list must be submitted within 30 days after the occurrence of any vacancy in the judicial membership: the judge of superior court, the clerk of superior court, the judge of district court specializing in juvenile matters, and the chief district court judge.

(4) The two members of the House of Representatives provided by subdivision (a)(1)d. of this section shall be appointed by the Speaker of the House of Representatives and the two members of the Senate provided by subdivision (a)(1)d. of this section shall be appointed by the President Pro Tempore of the Senate. These members shall perform the advisory review of the State plan for the General Assembly as permitted by section 206 of the Crime Control Act of 1976 (Public Law 94-503).

(5) The Governor may serve as chairman, designating a vice-chairman to serve at his pleasure, or he may designate a chairman and vice-chairman both of whom shall serve at his pleasure.

(c) The initial members of the Commission shall be those appointed under subsection (b) above, which appointments shall be made by March 1, 1977. The terms of the present members of the Governor's Commission on Law and Order shall expire on February 28, 1977. Effective March 1, 1977, the Governor shall appoint members, other than those serving by virtue of their office, to serve staggered terms; seven shall be appointed for one-year terms, seven for two-year terms, and seven for three-year terms. At the end of their respective terms of office their successors shall be appointed for terms of three years and until their successors are appointed and qualified. The Commission members from the House and Senate shall serve two-year terms effective March 1, of each odd-numbered year; and

they shall not be disqualified from Commission membership because of failure to seek or attain reelection to the General Assembly, but resignation or removal from office as a member of the General Assembly shall constitute resignation or removal from the Commission. Any other Commission member no longer serving in the office from which he qualified for appointment shall be disqualified from membership on the Commission. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, disability, or disqualification of a member shall be for the balance of the unexpired term.

(d) The Governor shall have the power to remove any member from the Commission for misfeasance, malfeasance or nonfeasance.

(e) The Commission shall meet quarterly and at other times at the call of the chairman or upon written request of at least eight of the members. A majority of the voting members shall constitute a quorum for the transaction of business."

Section 4.(ff) G.S. 147-45 reads as rewritten:

"§ *147-45. Distribution of copies of State publications.*

The Secretary of State shall, at the State's expense, as soon as possible after publication, provide such number of copies of the Session Laws and Senate and House Journals to federal, State, and local governmental officials, departments and agencies, and to educational institutions of instruction and exchange use, as is set out in the table below:

Agency or Institution	Session Laws	Assembly Journals
Governor, Office of the	3	2
Lieutenant Governor, Office of the	1	1
Secretary of State, Department of the	3	3
Auditor, Department of the State	3	1
Treasurer, Department of the State	3	1
Local Government Commission	2	0
State Board of Education	1	0
Department of Public Instruction	3	1
Controller	1	0
Technical Assistance Centers	1 ea.	0
Department of Community Colleges	3	1
Justice, Department of		
Office of the Attorney General	25	3
Budget Bureau (Administration)	1	0
Property Control (Administration)	1	1
State Bureau of Investigation	1	0
Agriculture and Consumer Services, Department of	3	1
Labor, Department of	5	1
Insurance, Department of	5	1
Administration, Department of	1	1

Budget Bureau	2	1
Controller	1	0
Property Control	1	0
Purchase and Contract	2	0
Policy and Development	1	0
Veterans Affairs Commission	1	0
Environment and Natural Resources, Department of	6	0
Wildlife Resources Commission	2	0
Revenue, Department of	5	1
Health and Human Services, Department of	6	0
Mental Health, Developmental Disabilities, and Substance Abuse Services, Division of	1	0
Social Services, Division of	3	0
Facilities Services, Division of	1	0
Hospitals and Institutions	1 ea.	0
~~Juvenile Justice, Office of~~		
Juvenile Justice and Delinquency Prevention, Department of	3	0
Transportation, Department of	1	0
Board of Transportation	3	0
Motor Vehicles, Division of	1	0
Commerce, Department of	1	0
Economic Development, Division of	2	0
State Ports Authority	1	0
Alcoholic Beverage Control Commission, North Carolina	2	0
Banking Commission	2	0
Utilities Commission	8	1
Industrial Commission	7	0
Labor Force Development Council	1	0
Milk Commission	5	0
Employment Security Commission	1	1
Correction, Department of	1	0
Department of Correction	2	0
Parole Commission	2	0
State Prison	1	0
Correctional Institutions	1 ea.	0
Cultural Resources, Department of	1	0
Archives and History, Division of	5	1
State Library	5	5
Publications Division	1	1
Crime Control and Public Safety, Department of	2	1
North Carolina Crime Commission	1	0
Adjutant General	2	0
Elections, State Board of	2	0
Office of Administrative Hearings	2	0
State Personnel Commission	1	0

Office of State Personnel	1	1
Legislative Branch		
State Senators	1 ea.	1 ea.
State Representatives	1 ea.	1 ea.
Principal Clerk -- Senate	1	1
Principal Clerk -- House	1	1
Reading Clerk -- Senate	1	1
Reading Clerk -- House	1	1
Sergeant at Arms -- House	1	1
Sergeant at Arms -- Senate	1	1
Enrolling Clerk	1	0
Engrossing Clerk	1	0
Indexer of the Laws	1	0
Legislative Building Library	35	15
Judicial System		
Justices of the Supreme Court	1 ea.	1 ea.
Judges of the Court of Appeals	1 ea.	1 ea.
Judges of the Superior Court	1 ea.	0
Emergency and Special Judges of the Superior Court	1 ea.	0
District Court Judges	1 ea.	0
District Attorneys	1 ea.	0
Clerk of the Supreme Court	1	1
Clerk of the Court of Appeals	1	1
Administrative Office of the Courts	4	1
Supreme Court Library	AS MANY AS REQUESTED	
Colleges and Universities		
The University of North Carolina System Administrative Offices	3	0
University of North Carolina, Chapel Hill	65	25
University of North Carolina, Charlotte	3	1
University of North Carolina, Greensboro	3	1
University of North Carolina, Asheville	2	1
University of North Carolina, Wilmington	2	1
North Carolina State University, Raleigh	5	3
Appalachian State University	2	1
East Carolina University	3	2
Elizabeth City State University	2	1
Fayetteville State University	2	1
North Carolina Agricultural and Technical University	2	1
North Carolina Central University	5	5
Western Carolina University	2	1
University of North Carolina, Pembroke	2	1
Winston-Salem State University	2	1
North Carolina School of the Arts	1	1
Private Institutions		

Duke University	6	6
Davidson College	3	2
Wake Forest University	5	5
Lenoir Rhyne College	1	1
Elon College	1	1
Guilford College	1	1
Campbell University	5	5
Wingate College	1	1
Pfeiffer College	1	1
Barber Scotia College	1	1
Barton College	1	1
Shaw University	1	1
St. Augustine's College	1	1
Johnson C. Smith University	1	1
Belmont Abbey College	1	1
Bennett College	1	1
Catawba College	1	1
Gardner-Webb College	1	1
Greensboro College	1	1
High Point University	1	1
Livingstone College	1	1
Mars Hill College	1	1
Meredith College	1	1
Methodist College	1	1
North Carolina Wesleyan College	1	1
Queens College	1	1
Sacred Heart College	1	1
St. Andrews Presbyterian College	1	1
Salem College	1	1
Warren Wilson College	1	1
County and Local Officials		
Clerks of the Superior Court	1 ea.	1 ea.
Register of Deeds	1 ea.	1 ea.
Federal, Out-of-State and Foreign		
Secretary to the President	1	0
Secretary of State	1	1
Secretary of Defense	1	0
Secretary of Agriculture	1	0
Secretary of the Interior	1	0
Secretary of Labor	1	1
Secretary of Commerce	1	1
Secretary of the Treasury	1	0
Secretary of Health, Education and Welfare	1	0
Secretary of Housing and Urban Development	1	0
Secretary of Transportation	1	0
Attorney General	1	0
Postmaster General	1	0

Bureau of Census	1	0
Bureau of Public Roads	1	0
Department of Justice	1	0
Department of Internal Revenue	1	0
Veterans' Administration	1	0
Farm Credit Administration	1	0
Securities and Exchange Commission	1	0
Social Security Board	1	0
Environmental Protection Agency	1	0
Library of Congress	8	2
Federal Judges resident in NorthCarolina	1 ea.	0
Federal District Attorneys resident in North Carolina	1 ea.	0
Marshal of the United States Supreme Court	1	0
Federal Clerks of Court resident in North Carolina	1 ea.	0
Supreme Court Library exchange list	1 ea.	0

One copy of the Session Laws shall be furnished the head of any department of State government created in the future.

State agencies, institutions, etc., not found in or covered by this list may, upon written request from their respective department head to the Secretary of State, and upon the discretion of the Secretary of State as to need, be issued copies of the Session Laws on a permanent loan basis with the understanding that should said copies be needed they will be recalled."

Section 4.(gg) G.S. 131D-10.4 reads as rewritten:

"*§ 131D-10.4. Exemptions.*

This Article shall not apply to:

(1) Any residential child-care facility chartered by the laws of the State of North Carolina (or operating under charters of other states which have complied with the corporation laws of North Carolina) which has a plant and assets worth sixty thousand dollars ($60,000) or more and which is owned or operated by a religious denomination or fraternal order and which was in operation before July 1, 1977;

(2) State institutions for emotionally disturbed or delinquent children, the mentally ill, mentally retarded, and substance abusers;

(3) Secure detention facilities as specified in ~~Article 3C of Chapter 147~~ Article 12 of Chapter 143B of the General Statutes;

(4) Licensable facilities subject to the rules of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services as specified in Article 2 of Chapter 122C of the General Statutes;

(5) Persons authorized by statute to receive and place children for foster care and adoption in accordance with G.S. 108A-14;

(6) Primarily educational institutions as defined in G.S. 131D-10.2(11); or

(7) Individuals who are related by blood, marriage, or adoption to the child."

Section 4.(hh) G.S. 153A-221.1 reads as rewritten:

"*§ 153A-221.1. Standards and inspections.*

The legal responsibility of the Secretary of Health and Human Services and the Social Services Commission for State services to county juvenile detention homes under this Article is hereby confirmed and shall include the following: development of State standards under the prescribed procedures; inspection; consultation; technical assistance; and training.

~~The Director of the Office of Juvenile Justice shall develop new standards which shall be applicable to county detention homes and regional detention homes as defined by Article 3C of Chapter 147 of the General Statutes in line with the recommendations of the report entitled Juvenile Detention in North Carolina: A Study Report (January, 1973) where practicable, and such new standards shall become effective not later than July 1, 1977.~~

The Secretary of Health and Human Services shall also develop standards under which a local jail may be approved as a holdover facility for not more than five calendar days pending placement in a juvenile detention home which meets State standards, providing the local jail is so arranged that any child placed in the holdover facility cannot converse with, see, or be seen by the adult population of the jail while in the holdover facility. The personnel responsible for the administration of a jail with an approved holdover facility shall provide close supervision of any child placed in the holdover facility for the protection of the child."

Section 4.(ii) G.S. 164-40 reads as rewritten:

"*§ 164-40. Correction population simulation model; ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention facilities population simulation model.*

(a) The Commission shall develop a correctional population simulation model, and shall have first priority to apply the model to a given fact situation, or theoretical change in the sentencing laws, when requested to do so by the Chairman, the Executive Director, or the Commission as a whole.

The Executive Director or the Chairman shall make the model available to respond to inquiries by any State legislator, or by the Secretary of the Department of Correction, in second priority to the work of the Commission.

(b) The Commission shall develop ~~an Office of Juvenile Justice~~ a Department of Juvenile Justice and Delinquency Prevention facilities population simulation model, and shall have first priority to apply the model to a given fact situation, or theoretical change in the

dispositional laws set forth in Chapter 7B of the General Statutes, when requested to do so by the Chairman, the Executive Director, or the Commission as a whole.

The Executive Director or the Chairman shall make the model available to respond to inquiries by any State legislator, or by the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, in second priority to the work of the Commission."

Section 4.(jj) G.S. 164-43 reads as rewritten:

"§ *164-43. Priority of duties; reports; continuing duties.*

(a) The Commission shall have two primary duties, and other secondary duties essential to accomplishing the primary ones. The Commission may establish subcommittees or advisory committees composed of Commission members to accomplish duties imposed by this Article.

It is the legislative intent that the Commission attach priority to accomplish the following primary duties:

(1) The classification of criminal offenses as described in G.S. 164-41 and the formulation of sentencing structures as described in G.S. 164-42; and

(2) The formulation of proposals and recommendations as described in G.S. 164-42.1 and G.S. 164-42.2.

(b) The Commission shall report its findings and recommendations to the 1991 General Assembly, 1991 Regular Session. The report shall describe the status of the Commission's work, and shall include any completed policy recommendations.

(c) The Commission shall report on its progress in formulating recommendations for the classification and ranges of punishment for felonies and misdemeanors, required by G.S. 164-41, and sentencing structures, established under G.S. 164-42, to the 1991 General Assembly, 1992 Regular Session, and shall make a final report on these recommendations no later than 30 days after the convening of the 1993 Session of the General Assembly.

(d) Once the primary duties of the Commission have been accomplished, it shall have the continuing duty to monitor and review the criminal justice and corrections systems and the juvenile justice system in this State to ensure that sentences and dispositions remain uniform and consistent, and that the goals and policies established by the State are being implemented by sentencing and dispositional practices, and it shall recommend methods by which this ongoing work may be accomplished and by which the correctional population simulation model and the ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention facilities population simulation model developed under G.S. 164-40 shall continue to be used by the State.

(e) Upon adoption of a system for the classification of offenses formulated under G.S. 164-41, the Commission or its successor shall review all proposed legislation which creates a new criminal offense, changes the classification of an offense, or changes the range of

punishment or dispositional level for a particular classification, and shall make recommendations to the General Assembly.

(f) In the case of a new criminal offense, the Commission or its successor shall determine whether the proposal places the offense in the correct classification, based upon the considerations and principles set out in G.S. 164-41. If the proposal does not assign the offense to a classification, it shall be the duty of the Commission or its successor to recommend the proper classification placement.

(g) In the case of proposed changes in the classification of an offense or changes in the range of punishment or dispositional level for a classification, the Commission or its successor shall determine whether such a proposed change is consistent with the considerations and principles set out in G.S. 164-41, and shall report its findings to the General Assembly.

(h) The Commission or its successor shall meet within 10 days after the last day for filing general bills in the General Assembly for the purpose of reviewing bills as described in subsections (e), (f), and (g). The Commission or its successor shall include in its report on a bill an analysis based on an application of the correctional population simulation model or the ~~Office of Juvenile Justice~~ Department of Juvenile Justice and Delinquency Prevention facilities population simulation model to the provisions of the bill."

Section 4.(kk) G.S. 164-37(26) reads as rewritten:

"(26) A representative of the ~~Office of Juvenile Justice.~~ Department of Juvenile Justice and Delinquency Prevention."

Section 4.(ll) G.S. 143B-2 reads as rewritten:

"§ *143B-2. Interim applicability of the Executive Organization Act of 1973.*

The Executive Organization Act of 1973 shall be applicable only to the following named departments:

(1) Department of Cultural Resources
(2) Department of Health and Human Services
(3) Department of Revenue
(4) Department of Crime Control and Public Safety
(5) Department of Correction
(6) Department of Environment and Natural Resources
(7) Department of Transportation
(8) Department of Administration
(9) Department of ~~Commerce.~~ Commerce
(10) Department of Juvenile Justice and Delinquency Prevention."

Section 4.(mm) G.S. 143B-6 reads as rewritten:

"§ *143B-6. Principal departments.*

In addition to the principal departments enumerated in the Executive Organization Act of 1971, all executive and administrative powers, duties, and functions not including those of the General Assembly and its agencies, the General Court of Justice and the administrative agencies created pursuant to Article IV of the Constitution of North

Carolina, and higher education previously vested by law in the several State agencies, are vested in the following principal departments:

(1) Department of Cultural Resources
(2) Department of Health and Human Services
(3) Department of Revenue
(4) Department of Crime Control and Public Safety
(5) Department of Correction
(6) Department of Environment and Natural Resources
(7) Department of Transportation
(8) Department of Administration
(9) Department of Commerce
(10) Community Colleges System ~~Office.~~ Office
(11) Department of Juvenile Justice and Delinquency Prevention."

Section 4.(nn) G.S. 126-5(d)(1) reads as rewritten:

"(d) (1) Exempt Positions in Cabinet Department. -- The Governor may designate a total of 100 exempt policymaking positions throughout the following departments:

a. Department of Administration;
b. Department of Commerce;
c. Department of Correction;
d. Department of Crime Control and Public Safety;
e. Department of Cultural Resources;
f. Department of Health and Human Services;
g. Department of Environment and Natural Resources;
h. Department of Revenue; ~~and~~
i. Department of ~~Transportation.~~ Transportation; and
j. Department of Juvenile Justice and Delinquency Prevention.

The Governor may designate exempt managerial positions in a number up to one percent (1%) of the total number of full-time positions in each cabinet department listed above in this sub-subdivision, not to exceed 30 positions in each department."

Section 4.(oo) G.S. 143B-417 reads as rewritten:

"*§ 143B-417. North Carolina Internship Council -- creation; powers and duties.*

There is hereby created the North Carolina Internship Council of the Department of Administration. The North Carolina Internship Council shall have the following functions and duties:

(1) To determine the number of student interns to be allocated to each of the following offices or departments:

a. Office of the Governor
b. Department of Administration
c. Department of Correction
d. Department of Cultural Resources
e. Department of Revenue
f. Department of Transportation
g. Department of Environment and Natural Resources

h. Department of Commerce
i. Department of Crime Control and Public Safety
j. Department of Health and Human Services
k. Office of the Lieutenant Governor
l. Office of the Secretary of State
m. Office of the State Auditor
n. Office of the State Treasurer
o. Department of Public Instruction
p. Repealed by Session Laws 1985, c. 757, s. 162.
q. Department of Agriculture and Consumer Services
r. Department of Labor
s. Department of Insurance
t. Office of the Speaker of the House of Representatives
u. Justices of the Supreme Court and Judges of the Court of Appeals
v. Community Colleges System ~~Office.~~ Office
w. Office of State Personnel
x. Office of the Senate President Pro ~~Tempore;~~ Tempore
y. Department of Juvenile Justice and Delinquency Prevention;

(2) To screen applications for student internships and select from these applications the recipients of student internships; and

(3) To determine the appropriateness of proposals for projects for student interns submitted by the offices and departments enumerated in ~~(1).~~ subdivision (1) of this section."

Section 4.(pp) G.S. 143B-426.22 reads as rewritten:

"*§ 143B-426.22. Governor's Management Council.*

(a) Creation; Membership. -- The Governor's Management Council is created in the Department of Administration. The Council shall contain the following members: The Secretary of Administration, who shall serve as chairman, a senior staff officer responsible for productivity and management programs from the Departments of Commerce, Revenue, Environment and Natural Resources, Transportation, Crime Control and Public Safety, Cultural Resources, Correction, Health and Human Services, Juvenile Justice and Delinquency Prevention, and Administration; and an equivalent officer from the Offices of State Personnel, State Budget and Management, and the Governor's Program for Executive and Organizational Development. The following persons may also serve on the Council if the entity represented chooses to participate: a senior staff officer responsible for productivity and management programs from any State department not previously specified in this section, and a representative from The University of North Carolina."

PART IV. EFFECTIVE DATE.

Section 5. Section 4.(e) becomes effective January 1, 2001. The remainder of the act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 12:15 p.m. on the 20th day of July, 2000.

S.B. 787 **SESSION LAW 2000-138**

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO MAKE PERMANENT THE FUTURE OF THE NORTH CAROLINA RAILROAD STUDY COMMISSION, TO CREATE THE 1898 WILMINGTON RACE RIOT COMMISSION, AND TO DIRECT STATE AGENCIES AND LEGISLATIVE OVERSIGHT COMMITTEES AND COMMISSIONS TO STUDY SPECIFIED ISSUES.

The General Assembly of North Carolina enacts:

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 2000".

PART II.-----LEGISLATIVE RESEARCH COMMISSION

Section 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. The following groupings are for reference only:

(1) Governmental and Personnel Issues:
   a. Salaries and benefits of Department of Correction employees (H.B. 1782 - Gibson).
   b. Receipt and use of federal funds under Title VI of the 1964 Civil Rights Act (S.J.R. 1274 - Jordan).

(2) Insurance, Managed Care, and other Health Care Issues:
   a. Insurance availability in beach and coastal areas (H.B. 1835 - Redwine).
   b. Employer-sponsored, self-insured group health benefit plans (S.B. 1429 - Dalton, Miller).
   c. Parity in health insurance coverage for mental illness and chemical dependency benefits (H.B. 1567 - Alexander; S.B. 1254 - Martin of Guilford).

(3) Education Issues:
   Placement of and providing a special education to children in group homes (H.B. 1833 - Hurley, Morris; S.B. 1540 - Rand).

(4) Health and Public Safety Issues:
   a. Pregnancy and drug abuse (H.B. 1846 - Sherrill).
   b. Social Anxiety Disorder (H.B. 1652 - Edwards, Wainwright).

(5) Economic Development Issues:
   a. State's travel and tourism industry and the economic benefits of that industry (Warwick).

(6) Environmental/Agricultural Issues:

a. Small family farm preservation (H.B. 1623 - Mitchell; S.B. 1342 - Albertson).
b. Water Supply Issues Study. -- The Legislative Research Commission may study water supply issues, including the source and supply of groundwater and surface waters in North Carolina including interbasin transfer of water, pollution of groundwater and surface waters in North Carolina, progress toward controlling pollution of groundwater and surface waters, technology available for use in related areas, statewide public and private use of water, and water capacity use area issues. (Warwick, Rand, Odom, Albertson).
c. Wildlife Resources Commission Rules concerning snakes (H.B. 1841 - Allred).

(7) Civil Law Issues:
a. Seized property (H.B. 1750 - Buchanan).
b. Termination of parental rights of rapists (H.B. 1678 - Ellis).

(8) Court System:
Authority of Magistrates and Clerks of Court (H.B. 1224 - Baddour; S.B. 1023 - Clodfelter).

Section 2.2. Reporting Date. -- For each of the topics the Legislative Research Commission decides to study under this Part or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 2001 General Assembly.

PART III. -----ELECTION LAWS STUDY COMMISSION

Section 3.1. The Election Laws Study Commission may study second primary elections, the cost to taxpayers to conduct second primaries, voter turnout, impact on elections, and other related matters and report its findings, together with any recommended legislation, to the 2001 General Assembly upon its convening.

PART IV.-----REVENUE LAWS STUDY COMMITTEE

Section 4.1. The Revenue Laws Study Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2001 General Assembly upon its convening. The Revenue Laws Study Committee may study:

(1) The simplification of all State revenue and tax forms.
(2) Tax credits, including adjustments to and credits for ad valorem taxes, to encourage production of affordable housing.
(3) The establishment of an investment advisory committee to serve as a liaison between the General Assembly and the Department of State Treasurer and to assist the Treasurer in setting investment policies for the State.
(4) The homestead exemption (H.B. 1700 - Warner, Hurley; S.B. 1484 - Hoyle).

(5) Simplification of taxes on telecommunications (S.B. 1320 - Hoyle, Kerr).
(6) Interstate tax cooperation to eliminate multiple filings by individuals (S.J.R. 958 - Webster).

Section 4.2. Impacts of State Acquisition of Land for Conservation Purposes on Local Government Ad Valorem Tax Revenues. -- The Revenue Laws Study Committee may study the positive and negative impacts of the acquisition by the State of land for conservation purposes on local government ad valorem tax revenues. In conducting this study, the Committee may consider efforts by other states and the federal government to mitigate the negative impacts of acquisition by government of land for conservation purposes on local government ad valorem tax revenues.

Section 4.3. Interstate Tax Agreements. -- The Revenue Laws Study Committee may study interstate tax agreements regarding income taxes of individuals who work across North Carolina's borders from their states of residence. These agreements generally provide that an individual residing in one state (residence state) and employed in another state (work state) is taxed as if the earnings in the work state were sourced in the residence state; they also provide for the work state employer to withhold residence state income taxes. In conducting this study, the Committee should:

(1) Examine agreements, including mutual compliance enforcement provisions, existing between other states adjoining one another.
(2) Consult with appropriate officials of Virginia, South Carolina, Tennessee, and Georgia.
(3) Determine whether the goals of reducing taxpayer burden, simplifying tax administration, and increasing taxpayer compliance could be achieved by the adoption of appropriate tax agreements.
(4) Draft proposed agreements and any necessary enabling legislation to recommend to the General Assembly.

PART V.-----JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE

Section 5.1. The Joint Legislative Education Oversight Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2001 General Assembly upon its convening.

Section 5.2. Public School Bidding Laws. -- The Joint Legislative Education Oversight Committee may study exclusive contract practices among public schools.

Section 5.3. Textbook Distribution Methods. -- The Joint Legislative Education Oversight Committee may study methods of distribution of textbooks. In conducting this study, the Committee may survey the system of textbook distribution used in other states. The Committee may make recommendations on whether the State should continue to distribute textbooks using only those depository or

warehouse facilities operated by the State Board of Education or make other modifications to the current textbook distribution system. The Committee may use the results of the survey and other relevant information when developing its recommendations.

Section 5.4. School Counselors and Social Workers. -- The Joint Legislative Education Oversight Committee may study the issues related to school counselors and social workers in the public schools. In the course of the study, the Committee may consider:

(1) Whether the counselor-student ratio should be reduced from 1:450 to 1:250 and the cost of implementing this reduction;
(2) Whether counselors should be paid on the school psychologist salary schedule and the cost of implementing this salary increase; and
(3) Other issues related to counselors and social workers in the public schools (H.B. 1826 - Insko).

Section 5.5. Foreign Language Instruction. -- The Joint Legislative Education Oversight Committee may study the need for instruction in foreign languages at the elementary school level (H.B. 1799 - Insko).

Section 5.6. Instruction Days. -- The Joint Legislative Education Oversight Committee may study the feasibility of increasing the minimum number of instructional days to 200, increasing the minimum number of instructional hours to 1,120, and increasing the contractual period for teachers to 12 months. The study shall include an examination of the costs and benefits of the proposed increases as well as a recommended timetable for implementation (H.B. 1727 - Arnold).

PART VI.-----JOINT LEGISLATIVE HEALTH CARE OVERSIGHT COMMITTEE

Section 6.1. The Joint Legislative Health Care Oversight Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2001 General Assembly upon its convening.

Section 6.2. Elder Care Protection. -- The Joint Legislative Health Care Oversight Committee may study mandatory disqualifiers for employment in rest homes, adult care homes, home health care, and other industries which provide care and services to the elderly.

Section 6.3. State Pain Policy Study and Medical Practice. -- The Joint Legislative Health Care Oversight Committee may study the issue of State Pain Policy and Medical Practice. The study may assess the need for improved patient access to pain treatment and the need to revise current laws, regulations, or guidelines to eliminate undue restrictions on pain management while continuing to protect public health. In conducting the study, the Committee may involve members of the medical, law enforcement, and legal communities.

Section 6.4. Criminal Background Checks in Adult Care Industry. -- The Joint Legislative Health Care Oversight Committee may study further the criminal background checks required for the

adult care industry and the issue of establishing a list of mandatory disqualifying convictions for employment with rest homes, adult care facilities, and home health care agencies in North Carolina.

PART VII.-----JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE

Section 7.1. The Joint Legislative Transportation Oversight Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2001 General Assembly upon its convening:

(1) Abandoned vehicles on State roads (Mitchell).

(2) Policy associated with retirement benefits for part-time DOT employees (H.B. 1726 - Rogers).

PART VIII.-----FUTURE OF THE NORTH CAROLINA RAILROAD STUDY COMMISSION (S.B. 1183 - Dalton)

Section 8.1. Section 27.25.(b) of S.L. 1999-237 reads as rewritten:

"Section 27.25.(b) Membership.-- The Commission shall be composed of 16 members as follows:

(1) Eight members of the House of Representatives appointed by the Speaker of the House.

(2) Eight Members of the Senate appointed by the President Pro Tempore of the Senate.

Terms on the Commission are for two years and begin on January 15 of each odd-numbered year, except for the terms of the initial members, which begin on appointment. Members may complete a term of service on the Commission even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Commission."

Section 8.2.(a) If Senate Bill 1183, 2000 General Assembly, becomes law, Section 12 of that bill is repealed.

Section 8.2.(b) Section 27.25.(c) of S.L. 1999-237 reads as rewritten:

"Section 27.25.(c) Duties of the Commission. -- The Commission shall study the following matters:

(1) ~~The appropriate purpose, powers, and governance of the North Carolina Railroad Company.~~ The importance of railroads and railroad infrastructure improvements to economic development in North Carolina, including improvements to short line railroads.

(2) Issues important to the future of passenger and freight rail service in North Carolina.

(3) Methods to expedite property disputes between railroads and private landowners.

(4) All aspects of the operation, structure, management, and long-range plans of the North Carolina Railroad.

The Commission's study of these and any other matters is not intended and shall not delay the North Carolina Railroad Company's contract negotiations with freight and passenger rail service operators including Research Triangle Regional Public Transportation Authority and Norfolk Southern Railway Company."

Section 8.3.(a) If Senate Bill 1183, 2000 General Assembly, becomes law, Section 13 of that bill is repealed.

Section 8.3.(b) Section 27.25(k) of S.L. 1999-237 reads as rewritten:

"Section 27.25.(k) ~~Report.~~ Reports. -- The ~~commission~~ Commission shall submit ~~a final~~ an annual report to the General Assembly on or before ~~May 1, 2000,~~ the convening of the regular session of the General Assembly each year. ~~Upon filing of the report, the Commission shall terminate.~~"

PART IX.-----NER INTERIM STUDY OF DENR ORGANIZATION

Section 9.1. The Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives may study the current organization of the Department of Environment and Natural Resources to determine its effectiveness and efficiency and shall report any recommendations, including any legislative proposals, to the 2001 General Assembly no later than May 1, 2001. The Appropriations Subcommittees on Natural and Economic Resources in both the House of Representatives and the Senate may obtain assistance from any resources outside the General Assembly that the Subcommittees determine are needed to adequately perform their study.

PART X.-----STATE BOARD OF EDUCATION

Section 10.1. The State Board of Education may study the topics listed in this Part.

Section 10.2. School Calendar. -- The State Board of Education may study issues related to the public school calendar. The State Board shall report the results of this study to the Joint Legislative Education Oversight Committee prior to February 1, 2001. (H.B. 1847 - Warner; S.B. 1513 - Lucas).

Section 10.3. Integrated Curriculum. -- The State Board of Education may identify and evaluate strategies that can be developed and implemented to assist classroom teachers in providing students with interdisciplinary lessons that integrate science and social studies as well as reading, writing, and mathematics. These strategies shall include:

(1) Lessons and units based upon the Standard Course of Study;
(2) Staff development for teachers that addresses how to create lessons and units that integrate the curriculum across content areas;
(3) Staff development for principals to assist them in creating daily school schedules that provide planning time to enable

teachers to work together to develop interdisciplinary lessons and units;

(4) A plan to communicate and distribute to teachers and principals interdisciplinary lessons and units and staff development opportunities;

(5) The identification of funds, such as staff development funds, that local boards of education and school improvement teams may use to provide training to assist teachers in their development and use of interdisciplinary lessons and units; and

(6) Model daily school schedules that principals may use to provide planning time for teachers to develop and implement interdisciplinary lessons and units.

As part of its study, the State Board may collaborate with the constituent institutions of The University of North Carolina, the UNC Center for School Leadership Development, and the Association of Independent Colleges and Universities to identify and collect existing materials, to identify materials that can be developed and implemented, and to identify staff development opportunities that may be made available to teachers and principals.

The State Board of Education may report to the Joint Legislative Education Oversight Committee on the development of these strategies by December 1, 2000.

PART XI.-----ENVIRONMENTAL REVIEW COMMISSION TO REVIEW THE REPORT AND RECOMMENDATIONS OF THE ESTUARINE SHORELINE PROTECTION STAKEHOLDERS TEAM

Section 11.1. The Environmental Review Commission may review the findings and recommendations of the August 1999 report of the Estuarine Shoreline Protection Stakeholders Team of the Coastal Resources Commission. The Environmental Review Commission may determine which of the recommendations of the Stakeholders Team can be implemented administratively, which recommendations would require rule making by the Coastal Resources Commission or other agency, and which recommendations would require legislation. The Environmental Review Commission may evaluate existing local government land-use planning in the coastal and inland counties that are included in the river basins that drain to coastal North Carolina. The Environmental Review Commission may specifically evaluate whether the local land-use planning process required for coastal counties under the Coastal Area Management Act of 1974 should be extended to include inland counties that are included in the river basins that drain to coastal North Carolina. Upon request of the Environmental Review Commission, the Department of Environment and Natural Resources, the Coastal Resources Commission, and the Stakeholders Team shall provide assistance to the Environmental Review Commission in its conduct of this study. The Environmental Review Commission may refer consideration of any issue raised by

this study to the Commission to Address Smart Growth, Growth Management, and Development Issues. The Environmental Review Commission shall report its findings and recommendations, including legislative proposals, if any, to the 2001 General Assembly.

PART XII.-----LEGISLATIVE ETHICS COMMITTEE (H.B. 1774 - Allen, Miller)

Section 12.1. The Legislative Ethics Committee may study the need for and advisability of establishing conflicts of interest guidelines for public members of advisory committees and commissions in the executive and legislative branches of State government. The Legislative Ethics Committee may consult with the North Carolina Board of Ethics in conducting this study. The Legislative Ethics Committee shall report its findings and recommendations, including proposed legislation, to the 2001 General Assembly upon its convening. Any recommended legislation should include recommended guidelines or a procedure for the establishment of conflicts of interest guidelines.

PART XIII.-----DEPARTMENT OF HEALTH AND HUMAN SERVICES AND ADMINISTRATIVE OFFICE OF THE COURTS STUDY OF THE CHILD SUPPORT SYSTEM (H.B. 1528 - Nye; S.B. 1277 - Martin of Guilford)

Section 13.1. The Department of Health and Human Services and the Administrative Office of the Courts, in conjunction with local departments of social services, clerks of court, IV-D attorneys, district court judges, representatives of county government, representatives of business and industry, and representatives of child support clients, shall study ways to more effectively coordinate the efforts of the two agencies in regard to collection and enforcement of child support. This study shall include studying the feasibility of the two agencies granting each other access to one another's computer systems or the feasibility of making the computer systems compatible with one another. The study shall also include the development of protocols to facilitate directing individuals to the proper agency for assistance or information.

Section 13.2. The Department of Health and Human Services and the Administrative Office of the Courts, in conjunction with local departments of social services, clerks of court, IV-D attorneys, district court judges, representatives of county government, representatives of business and industry, and representatives of child support clients, shall study the problems with and barriers to the establishment of a unified system of child support collection and enforcement. This study shall also include estimates of the costs, including any savings, associated with the establishment of a unified system and any advantages or disadvantages associated with the establishment of a unified system over a five-year period. The two agencies shall make recommendations regarding solutions to any problems or barriers to the establishment of a unified system.

Section 13.3. The Department of Health and Human Services and the Administrative Office of the Courts shall make interim reports on their efforts under this Part, and any findings and recommendations resulting from the studies under this Part, to the Joint Legislative Public Assistance Commission by December 1, 2000, and shall make final reports to the Joint Legislative Public Assistance Commission by March 1, 2001.

PART XIV.----DEPARTMENT OF HEALTH AND HUMAN SERVICES, DEPARTMENT OF PUBLIC INSTRUCTION, AND DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES -- HUNGER PROGRAM STUDIES (H.B. 1526 - Nye)

Section 14.1. The Department of Health and Human Services and the Department of Public Instruction, in conjunction with the Department of Agriculture and Consumer Services, the statewide system of food banks, the North Carolina Hunger Network, the North Carolina Nutrition Network, and other State and local agencies, shall study the School Lunch Program, the School Breakfast Program, and the Summer Food Service Program. This study shall specifically include a study of the reasons for underutilization of the programs. The Department of Public Instruction and the Department of Health and Human Services shall take any actions authorized under current law to increase participation in these programs before the beginning of the 2000-2001 school year.

Section 14.2. The Department of Health and Human Services, in conjunction with the Department of Agriculture and Consumer Services, the statewide system of food banks, the North Carolina Hunger Network, the North Carolina Nutrition Network, and other State and local agencies, shall conduct a comprehensive study of the Food Stamp Program, specifically focusing on reasons for the underutilization of the program. This study shall include inquiry into the following areas:

(1) The feasibility of additional outreach efforts to inform the public of the requirements and availability of food stamps.
(2) The feasibility of extended business hours for local departments of social services to facilitate the process of obtaining food stamps.
(3) The feasibility of ending automatic termination of food stamps when the individual or family no longer receives Work First cash assistance; thereby providing a transition period while the family moves toward economic independence.

The Department shall identify any actions which may be taken under current law to increase participation in the Food Stamp Program and implement those actions as soon as practicable.

Section 14.3. The Department of Health and Human Services shall make an interim report on its efforts under this part, and any findings and recommendations, to the Joint Legislative Public Assistance Commission by December 1, 2000, and shall make a final

report to the Joint Legislative Public Assistance Commission by March 1, 2001.

PART XV.----DEPARTMENT OF HEALTH AND HUMAN SERVICES DEVELOPMENTAL DISABILITIES STUDY

Section 15.1. Section 11.23(b) of S.L. 2000-67 reads as rewritten:

"Section 11.23.(b) The ~~Department shall~~ Department, in consultation with the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, shall study whether a new division of developmental disabilities should be established in the Department. Not later than January 1, 2001, the Department shall report its findings and recommendations to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human ~~Services~~ Services, and the Senate Appropriations Committee on Human Resources."

PART XVI.----DEPARTMENT OF HEALTH AND HUMAN SERVICES ADOLESCENT PREGNANCY PREVENTION STUDY

Section 16.(a) Section 11.40 of S.L. 2000-67 is repealed.

Section 16.(b) The first paragraph of subsection (v) of Section 5 of S.L. 2000-67 reads as rewritten:

"Section 5.(v) The funds appropriated to the Department of Health and Human Services, Division of Public Health, in this ~~act~~ section in the TANF Block Grant for the 2000-2001 fiscal year for teen pregnancy prevention shall be used in accordance with the provisions of this subsection."

Section 16.(c) The Department of Health and Human Services, in collaboration with the Adolescent Pregnancy Prevention Coalition of North Carolina, local pregnancy prevention program administrators, and other organizations, shall develop a comprehensive plan for consolidating adolescent pregnancy prevention programs and adolescent parenting programs in a manner that facilitates all of the following:

(1) Efficient operations and the elimination of duplication among programs. To the extent that duplication in administration and program operations is demonstrably necessary for effective program operations, the Department shall indicate:
   a. Why duplication is necessary;
   b. Negative consequences relative to program goals as a result of eliminating duplication; and
   c. Means by which program and fiscal integrity and accountability will be achieved and monitored.

(2) Consistent progress in reducing adolescent pregnancy in North Carolina among demographic subgroups.

(3) Valid and reliable processes for monitoring and evaluating State and local fiscal and program performance.

(4) Program organization, administration, and governance that is clear and understandable.
(5) Targeting counties and municipalities with the highest adolescent pregnancy rates, increasing rates of adolescent pregnancy, high rates of adolescent pregnancy within demographic subgroups, or with the greatest need of parenting programs.
(6) An equitable and need-based process for funding individual projects and other program initiatives.
(7) Best practice models, while recognizing the desirability and utility of innovative and promising projects that are not classified as best practice models.

Not later than March 1, 2001, the Department shall report its plan for consolidation, including its findings and recommendations, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Human Resources, and the Fiscal Research Division.

PART XVII.----1898 WILMINGTON RACE RIOT COMMISSION

Section 17.1.(a) There is hereby established the 1898 Wilmington Race Riot Commission. The Commission shall be located within the Department of Cultural Resources.

Section 17.1.(b) The purpose of the Commission shall be to develop a historical record of the 1898 Wilmington Race Riot. In developing such a record, the Commission shall gather information, including oral testimony from descendants of those affected by the riot or others, examine documents and writings, and otherwise take such actions as may be necessary or proper in accurately identifying information having historical significance to the 1898 Wilmington Race Riot, including the economic impact of the riot on African-Americans in this State.

Section 17.1.(c) The Commission shall consist of 13 members, each of whom shall serve a two-year term. Commission members shall be appointed on or before September 1, 2000, as follows:

(1) The President Pro Tempore of the Senate shall appoint three members.
(2) The Speaker of the House of Representatives shall appoint three members.
(3) The Governor shall appoint three public members, one of whom shall be a historian.
(4) The Mayor and City Council of the City of Wilmington shall appoint two members.
(5) The New Hanover County Commissioners shall appoint two members.

The Commission shall terminate on December 31, 2002.

Section 17.1.(d) A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms in seats appointed by the General Assembly shall be filled in accordance with

G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

Section 17.1.(e) The Commission may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall be disqualified from participating in the official business of the Commission until the charges have been resolved.

Section 17.1.(f) Members of the Commission shall not receive per diem or reimbursement for travel or subsistence.

Section 17.1.(g) The Commission's officers shall consist of two cochairs, a vice-chair, and other officers deemed necessary by the Commission to carry out the purposes of this Article. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall appoint the cochairs of the Commission. All other officers shall be elected by the Commission. All officers shall serve for two-year terms and shall serve until their successors are elected and qualified.

Section 17.1.(h) The Commission shall meet at least quarterly to conduct business as authorized in subsection (b) of this section. A majority of Commission members shall constitute a quorum.

Section 17.1.(i) The Department of Cultural Resources shall provide necessary clerical and administrative support services to the Commission.

Section 17.1.(j) The Commission may submit to the General Assembly an interim report of its findings and recommendations. The Commission shall submit to the General Assembly a final report of its findings and recommendations no later than December 31, 2002. The final report may include suggestions for a permanent marker or memorial of the riot and whether to designate the event as a historic site.

Section 17.2. The Department of Cultural Resources shall support the activities of the 1898 Wilmington Race Riot Commission.

PART XVIII.-----BILL AND RESOLUTION REFERENCES

Section 18. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 1999 or 2000 Regular Session of the 1999 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The listing of the original bill or resolution in this act is for reference purposes only and shall not be deemed to incorporate by reference any of the substantive provisions contained in the original bill or resolution.

PART XIX.-----EFFECTIVE DATE AND APPLICABILITY

Section 19. Except as otherwise specifically provided, this act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 2:20 p.m. on the 21st day of July, 2000.

H.B. 1562 **SESSION LAW 2000-139**

AN ACT TO INCREASE THE AMOUNT OF GILL NET AUTHORIZED FOR USE UNDER A RECREATIONAL COMMERCIAL GEAR LICENSE AND TO DIRECT THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE TO STUDY ISSUES RELATED TO THE APPROPRIATE AMOUNT OF GILL NET THAT SHOULD BE AUTHORIZED FOR USE UNDER A RECREATIONAL COMMERCIAL GEAR LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-173(c) reads as rewritten:

"(c) Authorized Commercial Gear. --

(1) The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial operation and commercial gear used for recreational purposes.

(2) A person who holds a RCGL may use up to 100 yards of gill net to take fish for recreational purposes. Two persons who each hold a RCGL and who are fishing from a single vessel may use up to a combined 200 yards of gill net to take fish for recreational purposes. No more than 200 yards of gill net may be used to take fish for recreational purposes from a single vessel regardless of the number of persons aboard the vessel who hold a RCGL."

Section 2. The Joint Legislative Commission on Seafood and Aquaculture shall study issues related to the appropriate amount of gill net that should be authorized for use under a Recreational Commercial Gear License. The Commission shall report its findings and recommendations, including any legislative proposals, to the 2001 General Assembly.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 2:22 p.m. on the 21st day of July, 2000.

S.B. 1335 **SESSION LAW 2000-140**

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO MAKE OTHER TECHNICAL AND CONFORMING CHANGES, AND TO AMEND LAWS RELATING TO URBAN WATERFRONT DEVELOPMENT AND THE CLASSIFICATION OF GAMMA HYDROXYBUTYRIC ACID (GHB) AS A CONTROLLED SUBSTANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-38.4(l) reads as rewritten:

"(l) The Supreme Court may adopt standards for the certification and conduct of mediators and other neutrals who participate in settlement procedures conducted pursuant to this section. The standards may also regulate mediator training programs. The Supreme Court may adopt procedures for the enforcement of those standards. The administration of mediator certification, regulation of mediator conduct, and decertification shall be conducted through the Dispute Resolution Commission."

Section 2. G.S. 18B-603(f)(8) reads as rewritten:

"(8) The permits authorized by ~~G.S. 18B-100(1),~~ G.S. 18B-1001(1), (3), (5), and (10) for tourism resorts;".

Section 3. G.S. 20-19(c3)(3) reads as rewritten:

"(3) For any restoration of a drivers license for a person convicted of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, felony death by vehicle, G.S. 20-141.4(a1), manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, or a revocation under this subsection, that the person not operate a vehicle with an alcohol concentration of greater than 0.00 ~~or more~~ at any relevant time after the driving;".

Section 4. G.S. 20-19(c3)(4) reads as rewritten:

"(4) For any restoration of a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, felony death by vehicle, G.S. 20-141.4(a1), or manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, that the person not operate a vehicle with an alcohol concentration of greater than 0.00 ~~or more~~ at any relevant time after the driving."

Section 5. G.S. 20-138.2A(b2) reads as rewritten:

"(b2) Alcohol Screening Test. -- Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Commission ~~on~~ for Health Services, and the screening test is conducted in accordance with the applicable regulations of the Commission as to its manner and use."

Section 6. G.S. 20-138.2B(b2) reads as rewritten:

"(b2) Alcohol Screening Test. -- Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Commission ~~on~~ for Health Services, and the screening test is conducted in accordance with the applicable regulations of the Commission as to its manner and use."

Section 7. G.S. 20-138.3(b2) reads as rewritten:

"(b2) Alcohol Screening Test. -- Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Commission ~~on~~ for Health Services, and the screening test is conducted in accordance with the applicable regulations of the Commission as to its manner and use."

Section 8. G.S. 31B-4(a) reads as rewritten:

"(a) The right to renounce property or an interest therein is barred by:

(1) An assignment, conveyance, encumbrance, pledge, or transfer of the property or interest, or a contract therefor by the person authorized to renounce,

(2) A written waiver of the right to renounce, or

(3) Repealed by Session Laws 1998-148, s. 4.

(4) A sale of the property or interest under judicial sale made before the renunciation is effected."

Section 9. G.S. 43-46 reads as rewritten:

"*§ 43-46. Notice of delinquent taxes filed.*

It shall be the duty of the tax collector of each taxing unit, not later than June 30 following the date the taxes became delinquent, to file an exact memorandum of the delinquency, if any, of any registered land for the nonpayment of the taxes or assessments thereon, including ~~the~~ interest, in the office of the register of deeds for registration; and if such officer fails to perform such duty, and there shall be subsequent to such day a transfer of the land as hereinbefore provided, the grantee shall acquire a good title free from any lien for such taxes and assessments, and the collector and his sureties shall be liable for the payment of the taxes and assessments with the interest thereon. The register of deeds shall enter the notice of delinquency on the record copy of the certificate of title, and the tax lien shall be valid against the registered estate from the time it is noted on the record copy. The register of deeds shall enter the notice of cancellation of the tax lien on the record copy of the certificate of title upon presentation of satisfactory evidence of payment."

Section 10.(a) Section 2.2 of S.L. 1999-189 and Section 50 of S.L. 1999-456 are repealed.

Section 10.(b) G.S. 57C-2-20 reads as rewritten:

"*§ 57C-2-20. Formation.*

(a) One or more persons may ~~organize~~ form a limited liability company by delivering executed articles of organization to the Secretary of State for filing. A limited liability company may also be formed through the conversion of another business entity pursuant to Part 1 of Article 9A of this Chapter.

(b) (1) When the filing by the Secretary of State ~~files~~ of the articles of ~~organization,~~ organization becomes effective, the proposed organization becomes a limited liability company subject to this Chapter and to the purposes, conditions, and provisions stated in the ~~articles, and the person executing the articles of organization become members of the limited liability company.~~ articles of organization.

(2) Filing of the articles of organization by the Secretary of State is conclusive evidence of the ~~organization~~ formation of the limited liability company, except in a proceeding by the State to cancel or revoke the articles of organization or involuntarily dissolve the limited liability company.

(c) If initial members are not identified in the articles of organization of a limited liability company in the manner provided in G.S. 57C-3-01(a), the organizers shall hold one or more meetings at the call of a majority of the organizers to identify the initial members of the limited liability company. Unless otherwise provided in this Chapter or in the articles of organization of the limited liability company, all decisions to be made by the organizers at such meetings shall require the approval, consent, agreement, or ratification of a majority of the organizers. Unless otherwise provided in the articles of organization, the organizers may, in lieu of a meeting, take action as described in this subsection by written consent signed by all of the

organizers. The written consent may be incorporated in, or otherwise made part of, the initial written operating agreement of the limited liability company."

Section 11. G.S. 58-7-70 reads as rewritten:

"*§ 58-7-70. Effects of redomestication.*

The ~~license,~~ agent appointments and licenses, rates, and other items that the Commissioner authorizes or grants, in his discretion, that are in existence at the time any insurer licensed to transact the business of insurance in this State transfers its corporate domicile to this or any other state by merger, consolidation, or any other lawful method, shall continue in full force and effect upon such transfer if such insurer remains duly licensed to transact the business of insurance in this State. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to any new name of the insurer or its new location unless so ordered by the Commissioner. Every transferring insurer shall file new policy forms with the Commissioner on or before the effective date of the transfer, but may use existing policy forms with appropriate endorsements if allowed by, and under such conditions as approved by, the Commissioner: Provided, however, every such transferring insurer shall (i) notify the Commissioner of the details of the proposed transfer and (ii) promptly file any resulting amendments to corporate documents filed or required to be filed with the Commissioner."

Section 12. G.S. 58-28-15 reads as rewritten:

"*§ 58-28-15. Validity of acts or contracts of unauthorized company shall not impair obligation of contract as to the company; maintenance of suits; right to defend.*

The failure of a company to obtain a license shall not impair the validity of any acts or contracts of the company. Any person or insured holding contracts of insurance of an unauthorized insurer may bring an action in the courts of this State under the provisions of G.S. 58-16-35 for the enforcement of any rights pursuant to the contract of insurance. The failure of the insurance company to obtain a license shall not prevent such company from defending any action at law or suit in equity in any court of this State so long as the said company fully complies with the provisions of G.S. 58-16-35(c), but no company transacting insurance business in this State without a license shall be permitted to maintain an action at law or in equity in any court of this State to enforce any right, claim or demand arising out of the transaction of such business until such company shall have obtained a license. Nor shall an action at law or in equity be maintained in any court of this State by any successor or assignee of such company on any such right, claim or demand originally held by such company until a license shall have been obtained by the company or by a company which has acquired all or substantially all of its assets. Nothing in this section shall be construed to abrogate the conditions of admission into this State nor to impair the authority of the Commissioner with respect to the issuance of ~~certificates of authority [licenses],~~ licenses. The Commissioner in considering the

issuance of a license shall take into consideration the acts or transactions which an unauthorized company has engaged in in this State prior to its application for a license."

Section 13. G.S. 58-30-10(6) reads as rewritten:

"(6) 'Doing business' includes any of the following acts by insurers, whether effected by mail or otherwise:

a. The issuance or delivery of contracts of insurance to persons resident in this State;

b. The solicitation of applications for such contracts, or other negotiations preliminary to the execution of such contracts;

c. The collection of premiums, membership fees, assessments, or other consideration for such contracts;

d. The transaction of matters subsequent to execution of such contracts and arising out of them;

e. Operating as an insurer under a license ~~or license~~ issued by the Department; or

f. The purchase of contracts of insurance issued to persons in this State by an assumption agreement."

Section 14. G.S. 58-30-55(2) reads as rewritten:

"§ *58-30-55. Condition on release from delinquency proceedings.*

No insurer that is subject to any delinquency proceedings, whether formal or informal, administrative or judicial, shall:

(1) Be released from such proceeding, unless such proceeding is converted into a judicial rehabilitation or liquidation proceeding;

(2) Be permitted to solicit or accept new business or request or accept the restoration of any suspended or revoked ~~license or~~ license;

(3) Be returned to the control of its shareholders or private management; or

(4) Have any of its assets returned to the control of its shareholders or private management;

until all payments of or on account of the insurer's contractual obligations by all guaranty associations, along with all expenses thereof and interest on all such payments and expenses, have been repaid to the guaranty associations or a plan of repayment by the insurer shall have been approved by the guaranty associations."

Section 15. G.S. 58-42-45(a) reads as rewritten:

"(a) The provisions of Chapter 150B of the General Statutes shall apply to this Article.

~~shall pursuant to~~".

Section 16. G.S. 58-50-1 reads as rewritten:

"§ *58-50-1. Waiver by insurer.*

The acknowledgment by any insurer of the receipt of notice given under any policy covered by Articles 49, 50 through 55, 65, or 67 of this Chapter, or the furnishing of forms for filing proofs of loss, or the acceptance of such proofs, or the investigation of any claim

~~[under]~~ under the policy, shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under the policy."

Section 17. G.S. 59-201(a) reads as rewritten:

"(a) In order to form a limited partnership, a certificate of limited partnership must be executed and filed in the office of the Secretary of State and set forth:

(1) The name of the limited ~~partnership;~~ partnership.

(2) The address, including county and city or town, and street and number, if any, of the registered office and the name of the registered agent at such address for service of process required to be maintained by ~~G.S. 59-105;~~ G.S. 59-105.

(3) The latest date upon which the limited partnership is to ~~dissolve; and~~ dissolve.

(4) The name and the address, including county and city or town, and street and number, if any, of each general partner.

(5) The address, including county and city or town, and street and number, if any, of the office at which the records referred to in G.S. 59-106 are kept, if such records are not kept at the registered office."

Section 18. G.S. 89C-12 reads as rewritten:

"*§ 89C-12. Records and reports of Board; evidence.*

The Board shall keep a record of its proceedings and a register of all applicants for licensure, showing for each the date of application, name, age, education, and other qualifications, place of business and place of residence, whether the applicant was rejected or a certificate of licensure granted, and the date licensure was rejected or granted. The books and register of the Board shall be prima facie evidence of all matters recorded by the Board, and a copy duly certified by the secretary of the Board under seal shall be admissible in evidence as if the original were produced. A roster showing the names and places of business and of residence of all licensed professional engineers and all licensed professional land surveyors shall be prepared by the secretary of the Board current to the month of January of each year. The roster shall be printed by the Board out of the Board's fund and distributed as described in the Board's rules. On or before the first day of May of each year, the Board shall submit to the Governor a report on its transactions for the preceding year, and shall file with the Secretary of State a copy of the report, together with a complete statement of the receipts and expenditures of the Board attested by the chair and the secretary and a copy of the ~~the~~ roster of licensed professional engineers and professional land surveyors."

Section 19.(a) G.S. 93A-3(a) reads as rewritten:

"(a) There is hereby created the North Carolina Real Estate Commission, hereinafter called the Commission. The Commission shall consist of nine members, seven members to be appointed by the Governor, one member to be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, and one member to be appointed by

the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. At least three members of the Commission shall be licensed real estate brokers or real estate ~~salesmen.~~ salespersons. At least two members of the Commission shall be persons who are not involved directly or indirectly in the real estate or real estate appraisal business. Members of the Commission shall serve three-year terms, so staggered that the terms of ~~two~~ three members expire in one year, the terms of ~~two~~ three members expire in the next year, and the terms of three members expire in the third year of each three-year period. The members of the Commission shall elect one of their members to serve as chairman of the Commission for a term of one year. The Governor may remove any member of the Commission for misconduct, incompetency, or willful neglect of duty. The Governor shall have the power to fill all vacancies occurring on the Commission, except vacancies in legislative appointments shall be filed under G.S. 120-122."

Section 19.(b) The Revisor of Statutes is authorized to delete any reference to the words "salesman", "salesman's", "salesmen", and "salesmen's" wherever they appear in Chapter 93A of the General Statutes and to substitute, as appropriate, the words "salesperson", "salesperson's", "salespersons", and "salespersons'".

Section 20.(a) Section 16 of S.L. 1999-293 is repealed.

Section 20.(b) G.S. 110-136.3 is amended by adding a new subsection to read:

"(d1) Employment verifications. -- For the purpose of establishing or modifying a child support order, the amount of the obligor's gross income may be established by a written statement signed by the obligor's employer or the employer's designee or an Employee Verification form produced by the Automated Collections Tracking System that has been completed and signed by the obligor's employer or the employer's designee. A written statement signed by the employer of the obligor or the employer's designee that sets forth an obligor's gross income, as well as an Employee Verification form signed by the obligor's employer or the employer's designee, shall be admissible evidence in any action establishing or modifying a child support order."

Section 21.(a) The introductory language of Section 6 of S.L. 1998-220 reads as rewritten:

"Section 6. ~~G.S. 115C-174.21(b)~~ G.S. 115C-174.11(b) reads as rewritten:".

Section 21.(b) The introductory language of Section 11 of S.L. 1998-220 reads as rewritten:

"Section 11. ~~G.S. 115C-174.21(c)~~ G.S. 115C-174.11(c) reads as rewritten:".

Section 22. G.S. 115C-105.46(2) reads as rewritten:

"(2) Shall provide, in cooperation with the Board of Governors of The University of North Carolina, ongoing technical assistance to the local school administrative units in the

development, implementation, and evaluation of their local plans under ~~G.S. 115C-105.57.~~ G.S. 115C-105.47."

Section 23. G.S. 115C-325(n) reads as rewritten:

"(n) Appeal. -- Any career employee who has been dismissed or demoted under G.S. 115C-325(e)(2), or under G.S. 115C-325(j2), or who has been suspended without pay under G.S. 115C-325(a)(4a), or any school administrator whose contract is not renewed in accordance with G.S. 115C-287.1, ~~or any school administrator whose contract is not renewed in accordance with G.S. 115C-287.1,~~ or any probationary teacher whose contract is not renewed under G.S. 115C-325(m)(2) shall have the right to appeal from the decision of the board to the superior court for the superior court district or set of districts as defined in G.S. 7A-41.1 in which the career employee is employed. This appeal shall be filed within a period of 30 days after notification of the decision of the board. The cost of preparing the transcript shall be determined under G.S. 115C-325(j2)(8) or G.S. 115C-325(j3)(10). A career employee who has been demoted or dismissed, or a school administrator whose contract is not renewed, who has not requested a hearing before the board of education pursuant to this section shall not be entitled to judicial review of the board's action."

Section 24. G.S. 115C-325(q)(1)b. reads as rewritten:

"b. If the State Board through its designee recommends the dismissal of a principal under this subdivision, the principal shall be suspended with pay pending a hearing before a panel of three members of the State Board. The purpose of this hearing, which shall be held within 60 days after the principal is suspended, is to determine whether the principal shall be dismissed.

~~These principals shall be suspended with pay pending a hearing before a panel of three members of the State Board. The purpose of this hearing, which shall be held within 60 days after the principal is suspended, is to determine whether the principal shall be dismissed.~~"

Section 25. G.S. 115C-404(a) reads as rewritten:

"§ *115C-404. Use of juvenile court information.*

(a) Written notifications received in accordance with G.S. 7B-3101 and information gained from examination of juvenile records in accordance with G.S. 7B-3100 are confidential records, are not public records as defined under G.S. 132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall shred, burn, or otherwise destroy documents received in accordance with G.S. 7B-3100 to protect the confidentiality of the information when the principal receives notification that the court dismissed the petition under G.S. 7B-2411, the court transferred jurisdiction over the student to superior court under G.S. 7B-2200, or the court granted the student's petition for expunction of the records. The principal shall shred, burn, or otherwise destroy all information

gained from examination of juvenile records in accordance with G.S. 7B-3100 when the principal finds that the school no longer needs the information to protect the safety of or to improve the educational opportunities for the student or others. In no case shall the principal make a copy of these documents.

~~G.S. 7A-675.2 Article 31 of Chapter 7B of the General Statutes petition, court, records pursuant to Chapter 7B of the General Statutes.~~"

Section 26. G.S. 116-14(b1) reads as rewritten:

"(b1) The President shall receive General Fund appropriations made by the General Assembly for continuing operations of The University of North Carolina that are administered by the President and the President's staff complement established pursuant to G.S. 116-14(b) in the form of a single sum to Budget Code 16010 of The University of North Carolina in the manner and under the conditions prescribed by G.S. 116-30.2. The President, with respect to the foregoing appropriations, shall have the same duties and responsibilities that are prescribed by G.S. 116-30.2 for the Chancellor of a special responsibility constituent institution. The President may establish procedures for transferring funds from Budget Code 16010 to the constituent institutions for nonrecurring expenditures. The President may identify funds for capital improvement projects from Budget Code 16010, and the capital improvement projects may be established following the procedures set out in ~~in~~ G.S. 143-18.1."

Section 27. G.S. 116B-66(a) reads as rewritten:

"(a) After property has been paid or delivered to the Treasurer under this Article, another state may recover the property if:

(1) The property was paid or delivered to the custody of this State because the records of the holder did not reflect a last known location of the apparent owner within the borders of the other state, and the other state establishes that the apparent owner or other person entitled to the property was last known to be located within the borders of that state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

(2) The property was paid or delivered to the custody of this State because the laws of the other state did not provide for the escheat or custodial taking of the property, and under the laws of that state subsequently enacted, the property has escheated or become subject to a claim of abandonment by that state;

(3) The records of the holder were erroneous in that they did not accurately identify the owner of the property and the last known location of the owner within the borders of another state, and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state; or

~~(4) The property was subjected to custody by this State under G.S. 116B-56(6), and under the laws of the state of domicile of the holder, the property has escheated or become subject to a claim of abandonment by that state; or~~

(5) The property is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered into the custody of this State under ~~G.S. 116B-56(7),~~ G.S. 116B-56(a)(6), and under the laws of the other state, the property has escheated or become subject to a claim of abandonment by that state."

Section 28. The catch line of G.S. 120-9 reads as rewritten:

"*§ 120-9. Freedom of ~~speech; protection from arrest.~~ speech.*"

Section 29. G.S. 126-2(b)(5) reads as rewritten:

"(5) One member of the public at large appointed by the Governor. The initial member appointed under this subdivision shall serve for a term expiring June 30, 2001; the terms of subsequent appointees shall be for six years. ~~seven~~".

Section 30. G.S. 131D-2(b)(1) reads as rewritten:

"(1) The Department of Health and Human Services shall inspect and license, under rules adopted by the Medical Care Commission, all adult care homes for persons who are aged or mentally or physically disabled except those exempt in subsection (c) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary for failure to comply with any part of this section or any rules adopted hereunder adult care. ~~adult care adult care~~ Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. A license shall not be renewed if outstanding fines and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. Except as otherwise provided in this subdivision, the Department may amend a license by reducing it from a full license to a provisional license for a period of not more than 90 days whenever the Department finds that:

a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles;

b. There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and

c. There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may extend a provisional license for not more than one additional 90-day period upon finding that the licensee has made substantial progress toward remedying the licensure deficiencies that caused the license to be reduced to provisional status.

The Department may revoke a license whenever:

a. The Department finds that:
   1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
   2. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or

b. The Department finds that:
   1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
   2. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or

c. The Department finds that the licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Medical Care Commission, for substantial failure to comply with the provisions of this section or rules adopted pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license."

Section 31. G.S. 136-176(b)(2) reads as rewritten:

"(2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in ~~G.S. 136-80~~ G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops."

Section 32. G.S. 143-151.57(a) reads as rewritten:

"(a) Maximum Fees. -- The Board may adopt fees that do not exceed the amounts set in the following table for administering this Article:

Item	Maximum Fee
Application for home inspector license	$25.00
Application for associate home inspector license	15.00
Home inspector examination	75.00
Issuance of home inspector license	150.00
Issuance of associate home inspector license	100.00
Late renewal of home inspector license	25.00
Late renewal of associate home inspector license ~~inspector~~	15.00
Application for course approval	150.00
Renewal of course approval	75.00
Course fee, per credit hour per licensee	5.00
Credit for unapproved continuing education course	50.00
Copies of Board rules or licensure standards	Cost of printing and mailing."

Section 33. G.S. 143B-270(c) reads as rewritten:

"(c) Members appointed shall hold office for a term of four years beginning on October 1, 1987, except that three of the initial appointees and these three appointees' immediate successors shall serve a term of two years, with the immediate successors' terms expiring on September 30, 1991. ~~The Speaker, Lieutenant Governor, and Governor shall each select one of their initial appointees to serve a two-year term.~~"

Section 34. G.S. 160A-23.1(d) reads as rewritten:

"(d) If the council adopts the resolution provided for in subsection (a) of this section ~~and:~~

~~(1)~~ ~~Does~~ and does not adopt the changes, or

~~(2)~~ ~~Does~~ does adopt the changes, but approval under the Voting Rights Act of 1965, as amended, is required, and notice of such approval is not received,

by the end of the third day before the opening of the filing period, the municipal election shall be rescheduled as provided in this subsection and current officeholders shall hold over until their successors are elected and qualified. For cities using the:

(1) Partisan primary and election method under G.S. 163-291, the primary shall be held on the primary election date for county officers in 2002, the second primary, if necessary, shall be held on the second primary election date for county officers in 2002, and the general election shall be held on the general election date for county officers in ~~1992;~~ 2002;

(2) Nonpartisan primary and election method under G.S. 163-294, the primary shall be held on the primary election date for county officers in 2002 and the election shall be held on the date for the second primary for county officers in 2002;

(3) Nonpartisan plurality election method under G.S. 163-292, the election shall be held on the primary election date for county officers in 2002;

(4) Election and runoff method under G.S. 163-293, the election shall be held on the primary election date for county officers in 2002 and the runoffs, if necessary, shall be held on the date for the second primary for county officers in 2002.

The organizational meeting of the new council may be held at any time after the results of the election have been officially determined and published, but not later than the time and date of the first regular meeting of the council in July 2002, except in the case of partisan municipal elections, when the organizational meeting shall be held not later than the time and date of the first regular meeting of the council in December of 2002."

Section 35. G.S. 5A-23(g) reads as rewritten:

"(g) ~~A judge conducting a hearing to determine if a person is in civil contempt may at that hearing, upon making the required findings, find the person in criminal contempt for the same conduct, regardless of whether imprisonment for civil contempt is proper in the case.~~ A person who is found in civil contempt under this Article shall not, for the same conduct, be found in criminal contempt under Article 1 of this Chapter."

Section 36. G.S. 7A-41(c)(8) reads as rewritten:

"(8) The names and boundaries of precincts in New Hanover and Pender Counties are those in existence on ~~May~~ December 1, 1999."

Section 37. G.S. 14-113.20(b) reads as rewritten:

"(b) The term "identifying information" as used in this section includes the following:

(1) Social security numbers.
(2) Drivers license numbers.
(3) Checking account numbers.
(4) Savings account numbers.
(5) Credit card numbers.
(6) Debit card numbers.
(7) Personal Identification (PIN) Code as defined in ~~G.S. 14-113.8(8).~~ G.S. 14-113.8(6).
(8) Electronic identification numbers.
(9) Digital signatures.
(10) Any other numbers or information that can be used to access a person's financial resources."

Section 38. G.S. 7A-751(a) reads as rewritten:

"(a) The head of the Office of Administrative Hearings is the Chief Administrative Law Judge, who shall serve as Director of the Office. The Chief Administrative Law Judge has the powers and duties conferred on that position by this Chapter and the Constitution and laws of this State and may adopt rules to implement the conferred powers and duties.

The salary of the Chief Administrative Law Judge shall be the same as that fixed from time to time for district court judges. The salary of a Senior Administrative Law Judge shall be ninety-five percent (95%) of the salary of the Chief Administrative Law Judge.

In lieu of merit and other increment raises, the Chief Administrative Law Judge and any Senior Administrative Law Judge shall receive longevity pay on the same basis as is provided to employees of the State who are subject to the State Personnel Act."

Section 38.1.(a) G.S. 17C-3(a) reads as rewritten:

"(a) There is established the North Carolina Criminal Justice Education and Training Standards Commission, hereinafter called 'the ~~Commission," in the Department of Justice.~~ Commission.' The Commission shall be composed of 26 members as follows:

(1) Police Chiefs. -- Three police chiefs selected by the North Carolina Association of Chiefs of Police and one police chief appointed by the Governor.

(2) Police Officers. -- Three police officials appointed by the North Carolina Police Executives Association and two criminal justice officers certified by the Commission as selected by the North Carolina Law-Enforcement Officers' Association.

(3) Departments. -- The Attorney General of the State of North Carolina; the Secretary of the Department of Crime Control and Public Safety; the Secretary of the Department of Correction; the President of the ~~Department~~ North Carolina System of Community Colleges.

(3a) A representative of the Office of Juvenile Justice.

(4) At-large Groups. -- One individual representing and appointed by each of the following organizations: one mayor selected by the League of Municipalities; one law-enforcement training officer selected by the North Carolina Law-Enforcement Training Officers' Association; one criminal justice professional selected by the North Carolina Criminal Justice Association; one sworn law-enforcement officer selected by the North State Law-Enforcement Officers' Association; one member selected by the North Carolina Law-Enforcement Women's Association; and one District Attorney selected by the North Carolina Association of District Attorneys.

(5) Citizens and Others. -- The President of The University of North Carolina; the Director of the Institute of Government; and two citizens, one of whom shall be selected by the Governor and one of whom shall be selected by the Attorney General. The General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-122. Appointments by

the General Assembly shall serve two-year terms to conclude on June 30th in odd-numbered years."

Section 38.1.(b) G.S. 17C-6(a) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

(1) Promulgate rules and regulations for the administration of this Chapter, which rules may require (i) the submission by any criminal justice agency of information with respect to the employment, education, retention, and training of its criminal justice officers, and (ii) the submission by any criminal justice training school of information with respect to its criminal justice training programs that are required by this Chapter;

(2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position;

(3) ~~Certify,~~ Certify and recertify, pursuant to the standards that it has established for the purpose, persons as qualified under the provisions of this Chapter to be employed at entry level and retained as criminal justice officers;

(4) Establish minimum standards for the certification of criminal justice training schools and programs or courses of instruction that are required by this Chapter;

(5) ~~Certify,~~ Certify and recertify, pursuant to the standards that it has established for the purpose, criminal justice training schools and programs or courses of instruction that are required by this Chapter;

(6) Establish minimum standards and levels of education and experience for all criminal justice instructors who participate in programs or courses of instruction that are required by this Chapter;

(7) ~~Certify,~~ Certify and recertify, pursuant to the standards that it has established for the purpose, criminal justice instructors who participate in programs or courses of instruction that are required by this Chapter;

(8) Investigate and make such evaluations as may be necessary to determine if criminal justice agencies, schools, and individuals are complying with the provisions of this Chapter;

(9) Adopt and amend bylaws, consistent with law, for its internal management and control;

(10) Enter into contracts incident to the administration of its authority pursuant to this Chapter;

(11) Establish minimum standards and levels of training for certification and periodic recertification of operators of and

instructors for training programs in radio microwave, laser, and other electronic speed-measuring instruments;

(12) Certify and recertify, pursuant to the standards that it has established, operators and instructors for training programs for each approved type of radio microwave, laser, and other electronic speed-measuring instruments;

(13) In conjunction with the Secretary of Crime Control and Public Safety, approve use of specific models and types of radio microwave, laser, and other speed-measuring instruments and establish the procedures for operation of each approved instrument and standards for calibration and testing for accuracy of each approved instrument.

(14) Establish minimum standards for in-service training for criminal justice officers."

Section 39. G.S. 18B-108 reads as rewritten:

"§ *18B-108. Sales on trains.*

Alcoholic beverages may be sold on railroad trains in this State upon ~~receipt of the required revenue license under G.S. 105-113.76.~~ compliance with Article 2C of Chapter 105 of the General Statutes."

Section 40.(a) G.S. 24-1.1A(c) reads as rewritten:

"(c) If the home loan is one described in subdivision (a)(1) or subdivision (a)(2) of this section, the lender may charge the borrower the following fees and charges in addition to interest and other fees and charges as permitted in this section and late payment charges as permitted in G.S. 24-10.1:

(1) At or before loan closing, the lender may charge such of the following fees and charges as may be agreed upon by the parties notwithstanding the provisions of any State law, other than G.S. 24-1.1E, limiting the amount of such fees or charges:

a. Loan application, origination, ~~and commitment fees;~~ commitment, and interest rate lock fees;

a1. Fees to administer a construction loan or a construction/permanent loan, including inspection fees and loan conversion fees;

b. Discount points, but only to the extent the discount points are paid for the purpose of reducing, and in fact result in a bona fide reduction of the interest rate or time-price differential;

c. Assumption fees to the extent permitted by G.S. 24-10(d);

d. Appraisal fees to the extent permitted by G.S. 24-10(h);

e. ~~To~~ Fees and charges to the extent permitted by ~~G.S. 24-8(d), sums for the payment of bona fide loan-related goods, products, and services provided or to be provided by third parties and sums for the payment of taxes, filing fees, recording fees, and other charges, and fees paid or to be paid to public officials;~~ G.S. 24-8(d); and

f. Additional fees and charges, however individually or collectively denominated, payable to the lender which, in the aggregate, do not exceed the greater of (i) one quarter of one percent (1/4 of 1%) of the principal amount of the loan, or (ii) one hundred fifty dollars ($150.00).

(2) Except as provided in subsection (g) of this section with respect to the deferral of loan payments, upon modification, renewal, extension, or amendment of any of the terms of a home loan, the lender may charge such of the following fees and charges as may be agreed upon by the parties notwithstanding the provisions of any State law, other than G.S. 24-1.1E, limiting the amount of such fees or charges:

a. Discount points, but only to the extent the discount points are paid for the purpose of reducing, and in fact result in a bona fide reduction of, the interest rate or time-price differential;

a1. Fees which do not exceed one quarter of one percent (1/4 of 1%) of the principal amount of the loan if the principal amount of the loan is less than one hundred fifty thousand dollars ($150,000), or one percent of the principal amount of the loan if the principal amount of the loan is one hundred fifty thousand dollars ($150,000) or more, for the conversion of a variable interest rate loan to a fixed interest rate loan, of a fixed interest rate loan to a variable interest rate loan, of a closed-end loan to an open-end loan, or of an open-ended loan to a closed-end loan;

b. Assumption fees to the extent permitted by G.S. 24-10(d);

c. Appraisal fees to the extent permitted by G.S. 24-10(h);

d. ~~To~~ Fees and charges to the extent permitted by ~~G.S. 24-8(d), sums for the payment of bona fide loan-related goods, products, and services provided or to be provided by third parties and sums for the payment of taxes, filing fees, recording fees, and other charges, and fees paid or to be paid to public officials;~~ G.S. 24-8(d); and

e. ~~Additional~~ If no fees are charged under subdivision (c)(2)b. of this section, additional fees and charges, however individually or collectively denominated, payable to the lender which, in the aggregate, do not exceed the greater of (i) one quarter of one percent (1/4 of 1%) of the balance outstanding at the time of the modification, renewal, extension, or amendment of terms, or (ii) one hundred fifty dollars ($150.00). The fees and charges permitted by this sub-subdivision may be charged only pursuant to a written agreement which states the amount of the fee or charge and is made at

the time of the specific modification, renewal, extension, or amendment, or at the time the specific modification, renewal, extension, or amendment is requested."

Section 40.(b) G.S. 24-1.1A(g)(2)e. reads as rewritten:

"e. ~~No lender may charge a deferral fee for modifying or extending the maturity date of a loan or the date a balloon payment is due; provided, however, that any such modification or extension of the loan maturity date or the date a balloon payment is due shall, to the extent applicable, be considered a modification or extension subject to the provisions of subdivision (c)(2) of this section.~~ A lender may charge a deferral fee under this subsection for deferring the payment of all or part of one or more regularly scheduled payments, regardless of whether the deferral results in an extension of the loan maturity date or the date a balloon payment is due. A modification or extension of the loan maturity date or the date a balloon payment is due which is not incident to the deferral of a regularly scheduled payment shall be considered a modification or extension subject to the provisions of subdivision (c)(2) of this section."

Section 40.(c) G.S. 24-8(d) reads as rewritten:

"(d) Notwithstanding any contrary provision of State law, any lender may collect money from the borrower for the payment of (i) bona fide loan-related goods, products, and services provided or to be provided by third parties, ~~and~~ (ii) taxes, filing fees, recording fees, and other charges and fees paid or to be paid to public ~~officials.~~ officials, and (iii) fees payable to the federal government, any state or local government or any federal, state, or local governmental agency in connection with a loan made pursuant to a loan program sponsored by or offered through the federal government, any state or local government or any federal, state or local government agency, including loan guarantee and tax credit programs. No third party shall charge or receive (i) any unreasonable compensation for loan-related goods, products, and services, or (ii) any compensation for which no loan-related goods and products are provided or for which no or only nominal loan-related services are performed. Loan-related goods, products, and services include fees for tax payment services, fees for flood certification, fees for pest-infestation determinations, mortgage brokers' fees, appraisal fees, inspection fees, environmental assessment fees, fees for credit report services, assessments, costs of upkeep, surveys, attorneys' fees, notary fees, escrow charges, and insurance premiums (including, for example, fire, title, life, accident and health, disability, unemployment, flood, and mortgage insurance)."

Section 40.1. G.S. 24-1.1E(c) reads as rewritten:

"(c) Prohibited Acts and Practices. -- The following acts and practices are prohibited in the making of a high-cost home loan:

(1) No lending without home-ownership counseling. -- A lender may not make a high-cost home loan without first receiving certification from a counselor approved by the North

Carolina Housing Finance Agency that the borrower has received counseling on the advisability of the loan transaction and the appropriate loan for the borrower.

(2) No lending without due regard to repayment ability. -- As used in this subsection, the term "obligor" refers to each borrower, co-borrower, cosigner, or guarantor obligated to repay a loan. A lender may not make a high-cost home loan unless the lender reasonably believes at the time the loan is consummated that one or more of the obligors, when considered individually or collectively, will be able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status, and other financial resources (other than the borrower's equity in the dwelling which secures repayment of the loan). An obligor shall be presumed to be able to make the scheduled payments to repay the obligation if, at the time the loan is consummated, the obligor's total monthly debts, including amounts owed under the loan, do not exceed fifty percent (50%) of the obligor's monthly gross income as verified by the credit application, the obligor's financial statement, a credit report, financial information provided to the lender by or on behalf of the obligor, or any other reasonable means; provided, no presumption of inability to make the scheduled payments to repay the obligation shall arise solely from the fact that, at the time the loan is consummated, the obligor's total monthly debts (including amounts owed under the loan) exceed fifty percent (50%) of the obligor's monthly gross income.

(3) No financing of fees or charges. -- In making a high-cost home loan, a lender may not directly or indirectly finance:
   a. Any prepayment fees or penalties payable by the borrower in a refinancing transaction if the lender or an affiliate of the lender is the noteholder of the note being refinanced;
   b. Any points and fees; or
   c. Any other charges payable to third parties.

(4) No benefit from refinancing existing high-cost home loan with new high-cost home loan. -- A lender may not charge a borrower points and fees in connection with a high-cost home loan if the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan held by the same lender as noteholder.

(5) Restrictions on home-improvement contracts. -- A lender may not pay a contractor under a home-improvement contract from the proceeds of a high-cost home loan other than (i) by an instrument payable to the borrower or jointly to the borrower and the contractor, or (ii) at the election of the borrower, through a third-party escrow agent in

accordance with terms established in a written agreement signed by the borrower, the lender, and the contractor prior to the disbursement.

(6) No shifting of liability. -- A lender is prohibited from shifting any loss, liability, or claim of any kind to the closing agent or closing attorney for any violation of this section."

Section 41. G.S. 42A-19 reads as rewritten:

"*§ 42A-19. Transfer of property subject to a vacation rental agreement.*

(a) The grantee of residential property voluntarily transferred by a landlord who has entered into a vacation rental agreement for the use of the property shall take his or her title subject to the vacation rental agreement if the vacation rental is to end not later than 180 days after the grantee's interest in the property is recorded in the office of the register of deeds. If the vacation rental is to end more than 180 days after the recording of the grantee's interest, the tenant shall have no right to enforce the terms of the agreement unless the grantee has agreed in writing to honor such terms, but the tenant shall be entitled to a refund of ~~any~~ payments made by him or ~~her.~~ her, as provided in subsection (b) of this section. Prior to entering into any contract of sale, the landlord shall disclose to the grantee the time periods that the property is subject to a vacation rental agreement. Not later than 10 days after entering into the contract of sale the landlord shall disclose to the grantee each tenant's name and address and shall provide the grantee with a copy of each vacation rental agreement. Not later than 10 days after transfer of the property, the grantee or the grantee's agent shall:

(1) Notify each tenant in writing of the property transfer, the grantee's name and address, and the date the grantee's interest was recorded.

(2) Advise each tenant whether he or she has the right to occupy the property subject to the terms of the vacation rental agreement and the provisions of this section.

(3) Advise each tenant of whether he or she has the right to receive a refund of any payments made by him or her.

(b) Except as otherwise provided in this subsection, upon termination of the landlord's interest in the residential property subject to a vacation rental agreement, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent, or the real estate broker, shall, within 30 days, transfer all advance rent paid by the tenant, and the portion of any fees remaining after any lawful deductions made under G.S. 42A-16, to the landlord's successor in interest and thereafter notify the tenant by mail of such transfer and of the transferee's name and address. For vacation rentals that end more than 180 days after the recording of the interest of the landlord's successor in interest, unless the landlord's successor in interest has agreed in writing to honor the vacation rental agreement, the landlord or the landlord's agent, or the real estate broker, shall, within 30 days, transfer all advance rent paid by the tenant, and the

portion of any fees remaining after any lawful deductions made under G.S. 42A-16, to the tenant. Compliance with this subsection shall relieve the landlord or real estate broker of further liability with respect to any payment of rent or fees. Funds held as a security deposit shall be disbursed in accordance with G.S. 42A-18.

~~(c) If, prior to the tenant's occupancy of the property, the landlord's interest in the property is involuntarily transferred to another, the landlord shall refund to the tenant within 60 days after the transfer any payments made by the tenant.~~

(d) The failure of a landlord to comply with the provisions of this section shall constitute an unfair trade practice in violation of G.S. 75-1.1. A landlord who complies with the requirements of this section shall have no further obligations to the tenant."

Section 42.(a) G.S. 43-22 reads as rewritten:

"*§ 43-22. Jurisdiction of courts; registered land affected only by registration.*

Except as otherwise specially provided by this Chapter, registered land and ownership therein shall be subject to the jurisdiction of the courts in the same manner as if it had not been registered; but the registration shall be the only operative act to transfer or affect the title to registered land, and shall date from the time the writing, instrument or record to be registered is duly filed in the office of the register of deeds, subject to the provisions of this Chapter; no voluntary or involuntary transaction shall affect the title to registered lands until registered in accordance with the provisions of this Chapter: Provided, that all mortgages, deeds, surrendered and canceled certificates, when new certificates are issued for the land so deeded, the other paper-writings, if any, pertaining to and affecting the registered estate or estates herein referred to, shall be filed by the register of deeds for reference and information, but the ~~registration of titles book~~ consolidated real property records shall be and constitute sole and conclusive legal evidence of title, except in cases of mistake and fraud, which shall be corrected in the methods now provided for the correction of papers authorized to be registered."

Section 42.(b) G.S. 43-25 reads as rewritten:

"*§ 43-25. Release from registration.*

Whenever the record owner of any estate in lands, the title to which has been registered or attempted to be registered in accordance with the provisions of this Chapter, desires to have such estate released from the provisions of said Chapter insofar as said Chapter relates to the form of conveyance, so that such estate may ever thereafter be conveyed, either absolutely or upon condition or trust, by the use of any desired form of conveyance other than the certificate of title prescribed by said Chapter, such owner may present his owner's certificate of title to such registered estate to the register of deeds of the county wherein such land lies, with a memorandum or statement written by him on the margin thereof in the words following, or words of similar import, to wit: "I (or we),....., being the owner (or owners) of the registered estate evidenced by this certificate of title, do

hereby release said estate from the provisions of Chapter 43 of the General Statutes of North Carolina insofar as said Chapter relates to the form of conveyance, so that hereafter the said estate may, and shall be forever until again hereafter registered in accordance with the provisions of said Chapter and acts amendatory thereof, conveyed, either absolutely or upon condition or trust, by any form of conveyance other than the certificate of title prescribed by said Chapter, and in the same manner as if said estate had never been registered." Which said memorandum or statement shall further state that it is made pursuant to the provisions of this section, and shall be signed by such record owner and attested by the register of deeds under his hand and official seal, and a like memorandum or statement so entered, signed and attested upon the margin of the record of the said owner's certificate of title in the ~~registration of titles book~~ consolidated real property records in said register's office, with the further notation made and signed by the register of deeds on the margin of the certificate of title in the ~~registration of titles book~~ consolidated real property records showing that such entry has been made upon the owner's certificate of title; and thereafter any conveyance of such registered estate, or any part thereof, by such owner, his heirs or assigns, by means of any desired form of conveyance other than such certificate of title shall be as valid and effectual to pass such estate of the owner according to the tenor and purport of such conveyance in the same manner and to the same extent as if such estate had never been so registered."

Section 42.(c) G.S. 43-31 reads as rewritten:

"*§ 43-31. When whole of land conveyed.*

Whenever the whole of any registered estate is transferred or conveyed the same shall be done by a transfer or conveyance attached to the certificate substantially as follows:

The owners (giving the names of the parties owning land described in the certificate) hereby, in consideration of _____ dollars, sell and convey to the purchaser (giving name of purchaser) the lot or tract of land, as the case may be, described in the certificate of title hereto attached. The transfer shall be indexed on the grantor and grantee indexes in the same manner as deeds are indexed.

The same shall be signed and properly acknowledged by the parties and shall have the full force and effect of a deed in fee simple: Provided, that if the sale shall be in trust, upon condition, with power to sell or other unusual form of conveyance, the same shall be set out in the transfer, and shall be entered upon the ~~registration of titles book~~ consolidated real property records as hereinafter provided; that upon presentation of the transfer, together with the certificate of title, to the register of deeds, the transaction shall be duly noted and registered in accordance with the provisions of this Chapter, and certificate of title so presented shall be canceled and a new certificate with the same number issued to the purchaser thereof, which new certificate shall fully refer by number and also by name of holder to former certificate just canceled."

Section 42.(d) G.S. 43-35 reads as rewritten:

"*§ 43-35. References and cross references entered on register.*

In all cases the register of deeds shall place upon the ~~registry of title books~~ consolidated real property records and upon the certificate of title of such registered estate therein, references and cross references to the new certificates issued as above provided, in accordance with the provisions of this Article, and the new certificates issued shall fully refer by number and by name of the holder to the canceled certificate in place of which they are issued."

Section 42.(e) G.S. 43-36 reads as rewritten:

"*§ 43-36. When land conveyed as security.*

(a) Whole Land Conveyed. -- Whenever the owner of any registered estate shall desire to convey same as security for debt, it may be done in the following manner, by a short form of transfer, substantially as follows, to wit:

A.B. and wife (giving names of all owners or holders of certificates and their wives) hereby transfer to C.D. the tract or lot of land described as No. ..... in registration of titles book for ..... County, a certificate for the title for same being hereto attached, to secure a debt of ..... dollars, due to ....., of ..... County and State, on the .... day of ....., ..., evidenced by bond (or otherwise as the case may be) dated the ..... day of ....., ... In case of default in payment of said debt with accrued interest, ... days notice of sale required.

The same shall be signed and properly acknowledged by the parties making same, and shall be presented, together with the owner's certificate, to the register of deeds, whose duty it shall be to note upon the owner's certificate and upon the certificate of title in the ~~registration of titles book~~ consolidated real property records the name of the trustee, the amount of debt, and the date of maturity of same.

(b) Part of Land Conveyed. -- When a part of the registered estate shall be so conveyed, the register of deeds shall note upon the ~~book~~ consolidated real property records and owner's certificate the part so conveyed, and if the same be required and the proper fee paid by the trustee, shall issue what shall be known as a partial certificate, over his hand and seal, setting out the portion so conveyed.

(c) Effect of Transfer. -- All transfers by such short form shall convey the power of sale upon due advertisement at the county courthouse and in some newspaper published in the county, or adjoining county, in the same manner and as fully as is now provided by law in the case of mortgages and deeds of trust and default therein.

(d) Other Encumbrances Noted. -- All registered encumbrances, rights or adverse claims affecting the estate represented thereby shall continue to be noted, not only upon the certificate of title in the ~~registration book,~~ consolidated real property records, but also upon the owner's certificate, until same shall have been released or discharged. And in the event of second or other subsequent voluntary encumbrances the holder of the certificate may be required to produce

such certificate for the entry thereon or attachment thereto of the note of such subsequent charge or encumbrance as provided in this Article.

(e) Other Forms of Conveyance May Be Used. -- Nothing in this section nor this Chapter shall be construed to prevent the owner from conveying such land, or any part of the same, as security for a debt by deed of trust or mortgage in any form which may be agreed upon between the parties thereto, and having such deed of trust or mortgage recorded in the office of the register of deeds as other deeds of trust and mortgages are recorded: Provided, that the book and page of the record at which such deed of trust or mortgage is recorded shall be entered by the register of deeds upon the owner's certificate and also on the ~~registration of titles book.~~ consolidated real property records.

(f) Sale under Lien; New Certification. -- Upon foreclosure of such deed of trust or mortgage, or sale under execution for taxes or other lien on the land, the fact of such foreclosure or sale shall be reported by the trustee, mortgagee or other person authorized to make the same, to the register of deeds of the county in which the land lies, and, upon satisfactory evidence thereof, it shall be his duty to call in and cancel the outstanding certificate of title for the land, so sold, and to issue a new certificate in its place to the purchaser or other person entitled thereto; and the production of such outstanding certificate and its surrender by the holder thereof may be compelled, upon notice to him, by motion before and order of the clerk of the superior court in the original proceeding or the clerk of the superior court of the county in which the land lies; but the right of appeal from such order may be exercised and shall be allowed as in other special proceedings, and pending any such appeal the rights of all parties shall be preserved."

Section 42.(f) G.S. 43-38 reads as rewritten:

"*§ 43-38. Transfers probated; partitions; contracts.*

All transfers of registered land shall be duly executed and probated as required by law upon like conveyances of other lands, and in all cases of change in boundary by partition, subtraction or addition of land there shall be an accurate survey and permanent marking of boundaries and accurate plots, showing the courses, distances and markings of every portion thereof, which shall be duly proved and registered as upon the initial registration. Such transfers shall be presented to the register of deeds for entry upon the ~~registration of titles book~~ consolidated real property records and upon the owner's certificate within 30 days from the date thereof, or become subject to any rights which may accrue to any other person by a prior registration. All leases or contracts affecting land for a period exceeding three years shall be in writing, duly proved before the clerk of the superior court, recorded in the register's office, and noted upon the registry and upon the owner's certificate."

Section 42.(g) G.S. 43-39 reads as rewritten:

"*§ 43-39. Certified copy of order of court noted.*

In voluntary transactions a certificate from the proper State, county or court officer, or certified copy of the order, decree or judgment of any court of competent jurisdiction shall be authority for him to order

a proper notation thereof upon the ~~registration of titles book,~~ consolidated real property records, and for the register of deeds to note the transaction under the direction of the court."

Section 42.(h) G.S. 43-42 reads as rewritten:

"*§ 43-42. Conveyance of registered land in trust.*

Whenever a writing, instrument or record is filed for the purpose of transferring registered land in trust, or upon any equitable condition or limitation expressed therein, or for the purpose of creating or declaring a trust or other equitable interest in such land, the particulars of the trust, condition, limitation or other equitable interest shall not be entered on the certificate, but it shall be sufficient to enter in the ~~book~~ consolidated real property records and upon the certificates a memorial thereof by the terms "in trust" or "upon condition" or in other apt words, and to refer by number to the writing, instrument or record authorizing or creating the same. And if express power is given to sell, encumber or deal with the land in any manner, such power shall be noted upon the certificates by the term "with power to sell" or "with power to encumber," or by other apt words."

Section 42.(i) G.S. 43-44 reads as rewritten:

"*§ 43-44. Validating conveyance by entry on margin of certificate.*

In all cases where the owner of any estate in lands, the title to which has been registered or attempted to be registered in accordance with the provisions of this Chapter, has before August 21, 1924, and subsequent to such registration made any conveyance of such estate, or any portion thereof, by any form of conveyance sufficient in law to pass the title thereto if the title to said lands had not been so registered, the record owner and holder of the certificate of title covering such registered estate may enter upon the margin of his certificate of title in the ~~registration of titles book~~ consolidated real property records a memorandum showing that such registered estate, or a portion thereof, has been so conveyed, and further showing the name of the grantee or grantees and the number of the book and the page thereof where such conveyance is recorded in the office of the register of deeds, and make a like entry upon the owner's certificate of title held by him, both of such entries to be signed by him and witnessed by the register of deeds, and attested by the seal of office of the register of deeds upon said owner's certificate, with the further notation made and signed by the register of deeds on the margin of the certificate of title in the ~~registration of titles book~~ consolidated real property records showing that such entry has been made upon the owner's certificate of title, and thereupon such conveyance shall become and be as valid and effectual to pass such estate of the owner according to the tenor and purport of such conveyance as if the title to said lands had never been so registered, whether such conveyance be in form absolute or upon condition of trust; and in all cases where such conveyance has been made before August 21, 1924, upon the making of the entries herein authorized by the record owner and holder of such owner's certificate of title, the grantee and his heirs and assigns shall thereafter have the same right to convey the said

estate or any part of the same in all respects as if the title to said lands had never been so registered."

Section 42.(j) This section is effective retroactive to January 1, 2000.

Section 43. G.S. 55-5-04(b) reads as rewritten:

"(b) Whenever a corporation shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, then the Secretary of State shall be an agent of such corporation upon whom any such process, notice or demand may be served. Service on the Secretary of State of any such process, notice or demand shall be made by delivering to and leaving with ~~him~~ the Secretary of State or with any clerk ~~having charge of the corporation department of his office,~~ authorized by the Secretary of State to accept service of process, duplicate copies of any such process, notice or ~~demand.~~ demand and the fee required by G.S. 55-1-22(b). In the event any such process, notice or demand is served on the Secretary of ~~State, he~~ State in the manner provided by this subsection, the Secretary of State shall immediately mail one of the copies thereof, by registered or certified mail, return receipt requested, to the corporation at its principal office ~~shown in its most recent annual report or in any subsequent communication received from the corporation stating the current mailing address of its principal office~~ or, if there is no mailing address for the principal office on file, to the corporation at its registered office. Service on a corporation under this subsection shall be effective for all purposes from and after the date of ~~such~~ the service on the Secretary of State."

Section 44. G.S. 55-9-05 reads as rewritten:

"*§ 55-9-05. Exemptions.*

The provisions of G.S. 55-9-02 shall not be applicable to any corporation that shall be made the subject of a business combination by an other entity if: (i) the corporation was not a public corporation (as defined in G.S. 55-1-40 (18a)) at the time such other entity acquired in excess of ten percent (10%) of the voting shares; (ii) on or before September 30, 1990 (or such earlier date as may be irrevocably established by resolution of the board of directors), the board of directors of a corporation to which G.S. 55-9-02 was not applicable on July 1, 1990, (other than a corporation described in G.S. 55-9-05 (iii)) adopted a bylaw stating that the provisions of this Article shall not be applicable to the corporation; (iii) in the case of a corporation to which G.S. 55-9-02 was not applicable on July 1, 1990, as the result of adoption by its board of directors under G.S. 55-9-05(ii) of a bylaw providing that G.S. 55-9-02 not apply to such corporation, the board of directors of such corporation shall not have rescinded such bylaw on or before September 30, 1990 (or such earlier date as may be irrevocably established by resolution of the board of directors); (iv) in the case of a corporation (including its predecessors) which becomes a public corporation for the first time after July 1, 1990, such corporation adopts a bylaw within 90 days of

becoming a public corporation stating that the provisions of this Article shall not be applicable to it; (v) in the case of a newly formed corporation after April 23, 1987, the initial articles of incorporation of the corporation shall provide that the provisions of this Article shall not be applicable; ~~or~~ (vi) such business combination was the subject of an existing agreement of the corporation on ~~April 23, 1987.~~ April 23, 1987; or (vii) on or after September 1, 2000, and on or before December 31, 2000, the board of directors of a corporation to which G.S. 55-9-02 was applicable on September 1, 2000, adopts a bylaw stating that the provisions of this Article shall not be applicable to the corporation. Neither the adoption or failure to adopt a bylaw of the type set forth in ~~G.S. 55-9-05(ii) or (iv)~~ G.S. 55-9-05(ii), (iv), or (vii) of this section nor the rescission or failure to rescind a bylaw of the type referred to in G.S. 55-9-05(iii) shall constitute grounds for any cause of action, at law or in equity, against the corporation or any of its directors."

Section 45. G.S. 55-11-10(e1) reads as rewritten:

"(e1) If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited partnership, when the merger takes effect the surviving business entity is deemed:

(1) To agree that it may be served with process in this State in any proceeding for enforcement (i) of any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of this Chapter, and (iii) any obligation of the surviving business entity arising from the merger; and

(2) ~~If the surviving business entity does not have a registered agent in this State, to~~ To have appointed the Secretary of State as its ~~registered~~ agent for service of process in any such ~~proceeding until such time as the surviving business entity appoints a registered agent in this State.~~ proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such ~~process.~~ process and the fee required by G.S. 55-1-22(b). Upon receipt of service of process on behalf of a surviving business ~~entity,~~ entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business ~~entity at its address shown in the articles of merger or, if an application for certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application.~~ entity. If the surviving business entity is

authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (d) of this section."

Section 46. G.S. 55A-5-04(b) reads as rewritten:

"(b) When a corporation fails to appoint or maintain a registered agent in this State, or when its registered agent cannot with due diligence be found at the registered office, the Secretary of State shall be an agent of the corporation upon whom any process, notice, or demand may be served. Service on the Secretary of State of any process, notice, or demand shall be made by delivering to and leaving with the Secretary of State or with any clerk ~~having charge of the corporation department of his office,~~ authorized by the Secretary of State to accept service of process, duplicate copies of any such process, notice or ~~demand.~~ demand and the fee required by G.S. 55A-1-22(b). In the event any process, notice, or demand is served on the Secretary of ~~State,~~ State in the manner provided for in this section, ~~he~~ the Secretary of State shall immediately mail one of the copies thereof, by registered or certified mail, return receipt requested, to the corporation at its principal office ~~shown in its most recent annual report, if applicable, the articles of incorporation, the Designation of Principal Office Address form, in any subsequent Corporation's Statement of Change of Principal Office Address form, or in any subsequent communication received from the corporation stating the current mailing address of its principal office~~ or, if there is no mailing address for the principal office on file, to the corporation at its registered office. Service on a corporation under this subsection shall be effective for all purposes from and after the date of such service on the Secretary of State."

Section 47. G.S. 55-9A-09 reads as rewritten:

"*§ 55-9A-09. Exemptions.*

The provisions of this Article shall not be applicable to any corporation if, on or before September 30, 1990, or such earlier date as may be irrevocably established by resolution of the board of directors, or at any time before the corporation becomes, or after it ceases to be, a covered corporation, the board of directors adopts a bylaw stating that the provisions of this Article shall not be applicable to the corporation; or, in the case of a corporation formed after August 12, 1987, its initial articles of incorporation provide that this Article shall not be applicable to the ~~corporation.~~ corporation; or on or after September 1, 2000, and on or before December 31, 2000, the board of directors of a corporation to which the provisions of this Article were applicable on September 1, 2000, adopts a bylaw stating that the provisions of this Article shall not be applicable to the

corporation. Neither adoption nor failure to adopt such a bylaw or provision shall constitute grounds for any cause of action against the corporation, or any officer or director of the corporation."

Section 48. G.S. 55A-11-09 reads as rewritten:

"*§ 55A-11-09. Merger with unincorporated entity.*

(a) As used in this section, "business entity" means a domestic corporation as defined in G.S. 55-1-40 (including a professional corporation as defined in G.S. 55B-2), a foreign corporation as defined in G.S. 55-1-40 (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, a domestic or foreign limited liability company as defined in G.S. 57C-1-03, a domestic or foreign limited partnership as defined in G.S. 59-102, ~~and~~ a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this ~~State (including a registered limited liability partnership as defined in G.S. 59-32 and any limited liability partnership formed under a law other than the laws of this State).~~ State.

(b) One or more domestic nonprofit corporations may merge with one or more unincorporated entities and, if desired, one or more foreign nonprofit corporations, domestic business corporations, or foreign business corporations if:

(1) The merger is permitted by the laws of the state or country governing the organization and internal affairs of each of the other merging business entities;

(2) Each merging domestic nonprofit corporation and each other merging business entity comply with the requirements of this section and, to the extent applicable, the laws referred to in subdivision (1) of this subsection; and

(3) The merger complies with G.S. 55A-11-02, if applicable.

(c) Each merging domestic nonprofit corporation and each other merging business entity shall approve a written plan of merger containing:

(1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(2) The name of the merging business entity that shall survive the merger;

(3) The terms and conditions of the merger;

(4) The manner and basis for converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity or into cash or other property in whole or in part; and

(5) If the surviving business entity is a domestic nonprofit corporation, any amendments to its articles of incorporation that are to be made in connection with the merger.

The plan of merger may contain other provisions relating to the merger.

In the case of a domestic nonprofit corporation, approval of the plan of merger requires that the plan of merger be adopted as provided in G.S. 55A-11-03. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of such merging business entity.

After a plan of merger has been approved by a domestic nonprofit corporation but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger or, if there is no such provision, as determined by the board of directors.

(d) After a plan of merger has been approved by each merging domestic nonprofit corporation and each other merging business entity as provided in subsection (c) of this section, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

(1) The plan of merger;

(2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(3) The name ~~and address~~ of the surviving business ~~entity;~~ entity and, if the surviving business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address;

(4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and

(5) The effective date and time of merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned after the articles of merger have been filed but before the articles of merger become effective, the surviving business entity promptly shall deliver to the Secretary of State for filing an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger.

Certificates of merger shall also be registered as provided in G.S. 47-18.1.

(e) A merger takes effect when the articles of merger become effective. When a merger takes effect:

(1) Each other merging business entity merges into the surviving business entity and the separate existence of each merging business entity except the surviving business entity ceases;

(2) The title to all real estate and other property owned by each merging business entity is vested in the surviving business entity without reversion or impairment;

(3) The surviving business entity has all liabilities of each merging business entity;

(4) A proceeding pending by or against any merging business entity may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for a merging business entity whose separate existence ceases in the merger;

(5) If a domestic nonprofit corporation is the surviving business entity, its articles of incorporation shall be amended to the extent provided in the plan of merger;

(6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the articles of merger or, in the case of former holders of shares in a domestic business corporation, any rights they may have under Article 13 of Chapter 55 of the General Statutes; and

(7) If the surviving business entity is not a domestic business corporation, the surviving business entity is deemed to agree that it will promptly pay to the dissenting shareholders of any merging domestic business corporation the amount, if any, to which they are entitled under Article 13 of Chapter 55 of the General Statutes and otherwise to comply with the requirements of Article 13 as if it were a surviving domestic business corporation in the merger.

The merger shall not affect the liability or absence of liability of any holder of an interest in a merging business entity for any acts, omissions, or obligations of any merging business entity made or incurred prior to the effectiveness of the merger. The cessation of separate existence of a merging business entity in the merger shall not constitute a dissolution or termination of the merging business entity.

(e1) If the surviving business entity is not a domestic limited liability company, a domestic business corporation, a domestic nonprofit corporation, or a domestic limited partnership, when the merger takes effect the surviving business entity is deemed:

(1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic business corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic business corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and

(2) ~~If the surviving business entity does not have a registered agent in this State, to~~ To have appointed the Secretary of

State as its ~~registered~~ agent for service of process in any such ~~proceeding until such time as the surviving business entity appoints a registered agent in this State.~~ proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such ~~process.~~ process and the fee required by G.S. 55A-1-22(b). Upon receipt of service of process on behalf of a surviving business ~~entity,~~ entity in the manner provided by this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business ~~entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application.~~ entity. If the surviving business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (d) of this section.

(f) This section does not apply to a merger that does not include a merging unincorporated entity."

Section 49. G.S. 57C-2-43(b) reads as rewritten:

"(b) Whenever a limited liability company shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, then the Secretary of State shall be an agent of the limited liability company upon whom any process, notice, or demand may be served. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with the Secretary of State or with any clerk ~~having charge of the limited liability company department of the Secretary of State's office,~~ authorized by the Secretary of State to accept service of process, duplicate copies of the process notice, or ~~demand~~ demand and the fee required by G.S. 57C-1-22(b). In the event any such process, notice, or demand is served on the Secretary of ~~State,~~ State in the manner provided for in this section, the Secretary of State shall immediately mail one of the copies thereof, by registered or certified mail, return receipt requested, to the limited liability company at ~~the address indicated in the latest communication received by the secretary of State from the limited liability company stating the current mailling address of~~ its principal office or, if there is no mailing address for the principal office on file, to the limited liability company at its registered office. Service on a

limited liability company under this subsection shall be effective for all purposes from and after the date of the service on the Secretary of State."

Section 50. G.S. 57C-7-04(a) reads as rewritten:

"(a) A foreign limited liability company may apply for a certificate of authority to transact business in this State by delivering an application to the Secretary of State for filing. The application must set forth:

(1) The name of the foreign limited liability company or, if its name is unavailable for use in this State, a name that satisfies the requirements of G.S. 57C-7-06;
(2) The name of the state or country under whose law it is organized;
(3) Its date of organization and period of duration;
(4) The street address, and the mailing address if different from the street address, of its principal ~~office in the state or country under whose law it is organized;~~ office;
(5) The street address, and the mailing address if different from the street address, of its registered office in this State and the name of its registered agent at that office; and
(6) The names and usual business addresses of its current managers."

Section 51. G.S. 57C-9A-23(b) reads as rewritten:

"(b) If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited partnership when the merger takes effect, the surviving business entity is deemed:

(1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and
(2) ~~If the surviving business entity does not have a registered agent in this State, to~~ To have appointed the Secretary of State as its registered agent for service of process in any such ~~proceeding until such time as the surviving business entity appoints a registered agent in this State.~~ proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such ~~process.~~ process and the fee required by G.S. 57C-1-22(b). Upon receipt of service of process on behalf of a surviving business ~~entity,~~ entity in the manner provided for in this

section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business ~~entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application.~~ entity. If the surviving business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (d) of this section."

Section 52. G.S. 59-73.6(b) reads as rewritten:

"(b) If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited partnership when the merger takes effect, the surviving business entity is deemed:

(1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and

(2) ~~If the surviving business entity does not have a registered agent in this State, to~~ To have appointed the Secretary of State as its registered agent for service of process in any such ~~proceeding until such time as the surviving business entity appoints a registered agent in this State.~~ proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such ~~process.~~ process and the fees required by G.S. 59-73.7(c). Upon receipt of service of process on behalf of a surviving business ~~entity,~~ entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business ~~entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that~~

~~application.~~ entity. If the surviving business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (d) of this section."

Section 53. G.S. 59-84.2(h) reads as rewritten:

"(h) ~~An amendment or withdrawal of a registration is effective on the later of the date it is filed or a deferred effective date specified in the amendment or withdrawal.~~ A registration is amended by filing a certificate of amendment thereto in the office of the Secretary of State. The certificate shall set forth the following:

(1) The name of the partnership.
(2) The date of filing of the registration.
(3) The amendment to the registration."

Section 54. G.S. 59-91(f) reads as rewritten:

"(f) ~~An amendment or withdrawal of a registration is effective on the later of the date it is filed or a deferred effective date specified in the amendment or withdrawal.~~ A registration is amended by filing a certificate of amendment thereto in the office of the Secretary of State. The certificate shall set forth the following:

(1) The name of the partnership.
(2) The date of filing of the registration.
(3) The amendment to the registration."

Section 55. G.S. 59-902(a)(4) reads as rewritten:

"(a) Before transacting business in this State, a foreign limited partnership shall procure a certificate of authority to transact business in this State from the Secretary of State. No foreign limited partnership shall be entitled to transact in this State any business which a limited partnership organized under this Article is not permitted to transact. In order to register, a foreign limited partnership shall deliver to the Secretary of State an original and one conformed copy of an application for registration as a foreign limited partnership, signed by a general partner and setting forth:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this State;
(2) The jurisdiction and date of its formation;
(3) The date of formation and the period of duration;
(4) The address, including county and city or town, and street and number, if any, of the principal office of the foreign limited ~~partnership in the jurisdiction under the laws of which it is formed;~~ partnership;
(5) The address, including county and city or town, and street and number, if any, of the proposed registered office of the

foreign limited partnership in this State, and the name of its proposed registered agent in this State at such address; the agent must be an individual resident of this State, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in this State;

(6) If the certificate of limited partnership filed in the foreign limited partnership's state of organization is not required to include the names and addresses of the partners, a list of the names and addresses or, at the election of the foreign limited partnership, a list of the names and addresses of the general partners and the address, including county and city or town, and street and number, of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep such records until such foreign limited partnership's registration in this State is cancelled;

(7) A statement that in consideration of the issuance of a certificate of authority to transact business in this State, the foreign limited partnership appoints the Secretary of State of North Carolina as the agent to receive service of process, notice, or demand, whenever the foreign limited partnership fails to appoint or maintain a registered agent in this State or whenever any such registered agent cannot with reasonable diligence be found at the registered office;

(8) The names and addresses including county and city or town, and street and number, if any, of all of the general partners;

(9) The execution of a certificate or amendment by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true."

Section 56. G.S. 62-302 reads as rewritten:

"*§ 62-302. Regulatory fee.*

(a) Fee Imposed. -- It is the policy of the State of North Carolina to provide fair regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of regulating public utilities is a burden incident to the privilege of operating as a public utility. Therefore, for the purpose of defraying the cost of regulating public utilities, every public utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in addition to all other fees and taxes, as provided in this section. The fees collected shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the public.

It is also the policy of the State to provide limited oversight of certain electric membership corporations as provided in G.S. 62-53. Therefore, for the purpose of defraying the cost of providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, each fiscal year each electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale

as provided in G.S. 117-16 shall pay an annual fee as provided in this section.

(b) Public Utility Rate. --

~~(1) For the 1989-90 fiscal year, the regulatory fee shall be the greater of (i) twelve hundredths percent (0.12%) of each public utility's North Carolina jurisdictional revenues for each quarter or (ii) six dollars and twenty-five cents ($6.25) each quarter.~~

(2) ~~For fiscal years beginning on or after July 1, 1990, the~~ The public utility regulatory fee for each fiscal year shall be the greater of (i) a percentage rate, established by the General Assembly, of each public utility's North Carolina jurisdictional revenues for each quarter or (ii) six dollars and twenty-five cents ($6.25) each quarter.

When the Commission prepares its budget request for the upcoming fiscal year, the Commission shall propose a percentage rate of the public utility regulatory fee. For fiscal years beginning in an odd-numbered year, that proposed rate shall be included in the budget message the Governor submits to the General Assembly pursuant to G.S. 143-11. For fiscal years beginning in an even-numbered year, that proposed rate shall be included in a special budget message the Governor shall submit to the General Assembly. The General Assembly shall set the percentage rate of the public utility regulatory fee by law.

The percentage rate may not exceed the amount necessary to generate funds sufficient to defray the estimated cost of the operations of the Commission and the Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed the estimated cost of operating the Commission and the Public Staff for the upcoming fiscal year. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of operating the Commission or the Public Staff or a possible unanticipated increase or decrease in North Carolina jurisdictional revenues.

(3) If the Commission, the Public Staff, or both experience a revenue shortfall, the Commission shall implement a temporary public utility regulatory fee surcharge to avert the deficiency that would otherwise occur. In no event may the total percentage rate of the public utility regulatory fee plus any surcharge established by the Commission exceed twenty-five hundredths percent (0.25%).

(4) As used in this section, the term 'North Carolina jurisdictional revenues' means all revenues derived or realized from intrastate tariffs, rates, and charges approved or allowed by the Commission or collected pursuant to

Commission order or rule, but not including tap-on fees or any other form of contributions in aid of construction.

(b1) Electric Membership Corporation Rate. -- ~~For the purpose of providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, beginning with the 1999-2000 fiscal year the North Carolina Electric Membership Corporation shall pay an annual flat fee to the fund established in subsection (d) of this section.~~ The ~~amount of the annual~~ electric membership corporation regulatory fee for each fiscal year shall be a dollar amount as established by the General Assembly by law.

When the Commission prepares its budget request for the upcoming fiscal year, the Commission shall propose the amount of the electric membership corporation regulatory fee. For fiscal years beginning in an odd-numbered year, the proposed amount shall be included in the budget message the Governor submits to the General Assembly pursuant to G.S. 143-11. For fiscal years beginning in an even-numbered year, the proposed amount shall be included in a special budget message the Governor shall submit to the General Assembly.

The amount of the electric membership corporation regulatory fee proposed by the Commission may not exceed the amount necessary to defray the estimated cost of the operations of the Commission and the Public Staff for the regulation of the electric membership corporations in the upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed the estimated cost of the Commission and the Public Staff for the regulation of the electric membership corporations for the upcoming fiscal year. ~~The fee will be assessed on a quarterly basis and will be due and payable to the Commission on or before the 15th day of the second month following the end of each quarter.~~

(c) When Due. -- The electric membership corporation regulatory fee imposed under this section shall be paid in quarterly installments. The fee is due and payable to the Commission on or before the 15th day of the second month following the end of each quarter.

The public utility regulatory fee imposed under this ~~section, except the fee imposed by subsection (b1) of this section,~~ section is due and payable to the Commission on or before the 15th day of the second month following the end of each quarter. Every public utility subject to the public utility regulatory fee shall, on or before the date the fee is due for each quarter, prepare and render a report on a form prescribed by the Commission. The report shall state the public utility's total North Carolina jurisdictional revenues for the preceding quarter and shall be accompanied by any supporting documentation that the Commission may by rule require. Receipts shall be reported on an accrual basis.

If a public utility's report for the first quarter of any fiscal year shows that application of the percentage rate would yield a quarterly fee of twenty-five dollars ($25.00) or less, the public utility shall pay an estimated fee for the entire fiscal year in the amount of twenty-five dollars ($25.00). If, after payment of the estimated fee, the public

utility's subsequent returns show that application of the percentage rate would yield quarterly fees that total more than twenty-five dollars ($25.00) for the entire fiscal year, the public utility shall pay the cumulative amount of the fee resulting from application of the percentage rate, to the extent it exceeds the amount of fees, other than any surcharge, previously paid.

(d) Use of Proceeds. -- A special fund in the office of State Treasurer, the Utilities Commission and Public Staff Fund, is created. The fees collected pursuant to this section and all other funds received by the Commission or the Public Staff, except for the clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the clear proceeds of funds forfeited pursuant to G.S. 62-310(a), shall be deposited in the Utilities Commission and Public Staff Fund. The Fund shall be placed in an interest bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund shall only be spent pursuant to appropriation by the General Assembly.

The Utilities Commission and Public Staff Fund shall be subject to the provisions of the Executive Budget Act except that no unexpended surplus of the Fund shall revert to the General Fund. All funds credited to the Utilities Commission and Public Staff Fund shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the public as provided by this Chapter and in regulating electric membership corporations as provided in G.S. 117-18.1.

The clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the clear proceeds of funds forfeited pursuant to G.S. 62-310(a) shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

Section 57. G.S. 66-273 reads as rewritten:

"*§ 66-273. Prerequisites for authentication.*

All of the following conditions must be met before a document can be authenticated:

(1) All seals and signatures must be originals.

(2) All dates must follow in chronological order on all certifications.

(3) All acknowledgments to be authenticated by the Secretary shall be in English or accompanied by a certified or notarized English translation.

(4) Whenever a copy is used, it must include a statement that it is a true and accurate copy.

(5) Whenever a document is to be authenticated by the United States Department of State, it must comply with all applicable statutes, rules, and regulations of that office."

Section 58. G.S. 66-291 reads as rewritten:

"*§ 66-291. Requirements.*

(a) Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor,

retailer, or similar intermediary or intermediaries) after the effective date of this Article shall do one of the following:

(1) Become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(2) Place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation):

a. 1999: $.0094241 per unit sold after the effective date of this Article.

b. 2000: $.0104712 per unit sold.

c. For each of 2001 and 2002: $.0136125 per unit sold.

d. For each of 2003 through 2006: $.0167539 per unit sold.

e. For each of 2007 and each year thereafter: $.0188482 per unit sold.

(b) A tobacco product manufacturer that places funds into escrow pursuant to subdivision (2) of ~~section~~ subsection (a) of this ~~subsection~~ section shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(1) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subdivision (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(2) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(3) To the extent not released from escrow under subdivisions (1) or (2) of this subsection, funds shall be released from escrow and revert back to such tobacco product manufacturer 25 years after the date on which they were placed into escrow.

(c) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this section shall annually certify to the Attorney General that it is in compliance with this section. The

Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:

(1) Be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation ~~of this subsection,~~ either of subdivision (2) of subsection (a) of this section, of subsection (b) of this section, or of this section, may impose a civil penalty (the clear proceeds of which shall be paid to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2) in an amount not to exceed five percent (5%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent (100%) of the original amount improperly withheld from escrow;

(2) In the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation either of subdivision (2) of subsection (a) of this ~~section,~~ section, of subsection (b) of this section, or of this section, may impose a civil penalty (the clear proceeds of which shall be paid to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2) in an amount not to exceed fifteen percent (15%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent (300%) of the original amount improperly withheld from escrow; and

(3) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer, or similar intermediary) for a period not to exceed two years.

Each failure to make an annual deposit required under this section shall constitute a separate violation."

Section 59.(a) G.S. 85B-3.2(a) reads as rewritten:

"(a) Definitions. -- The following definitions shall apply in this section:

(1) Applicant -- An applicant for initial licensure as an ~~auctioneer.~~ auctioneer, apprentice auctioneer, or auction firm.

(2) Criminal history -- A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon an applicant's fitness to be licensed as an ~~auctioneer.~~ auctioneer, apprentice auctioneer, or auction firm."

Section 59.(b) G.S. 85B-3.2(d) reads as rewritten:

"(d) If the applicant's verified criminal history record check reveals one or more convictions of a crime that is punishable as a felony

offense, or the conviction of any crime involving fraud or moral turpitude, the Commission may deny the applicant's license. However, the conviction shall not automatically prohibit licensure, and the following factors shall be considered by the Commission in determining whether licensure shall be denied:

(1) The level and seriousness of the crime.
(2) The date of the crime.
(3) The age of the person at the time of the crime.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the applicant and the applicant's duties as an ~~auctioneer.~~ auctioneer, apprentice auctioneer, or auction firm.
(6) The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed.
(7) The subsequent commission by the person of a crime."

Section 59.(c) The catch line for G.S. 114-19.8 reads as rewritten:

"§ *114-19.8. Criminal record checks of applicants for ~~auctioneer~~ auctioneer, apprentice auctioneer, or auction firm license."*

Section 59.(d) This section becomes effective October 1, 2000, and applies to applications for licensure for auctioneers, apprentice auctioneers, and auction firms filed on or after that date.

Section 60. G.S. 90-178.3 reads as rewritten:

"§ *90-178.3. Regulation of midwifery.*

(a) No person shall practice or offer to practice or hold oneself out to practice midwifery unless approved pursuant to this Article.

(b) A person approved pursuant to this Article may practice midwifery in a hospital or non-hospital setting and shall practice under the supervision of a physician licensed to practice medicine who is actively engaged in the practice of obstetrics. A registered nurse approved pursuant to this Article is authorized to write prescriptions for drugs in accordance with the same conditions applicable to a nurse practitioner under G.S. 90-18.2(b).

(c) Graduate nurse midwife applicant status may be granted by the joint subcommittee in accordance with G.S. 90-178.4."

Section 61. The catch line of G.S. 105-40 reads as rewritten:

"§ *105-40. Amusements -- Certain exhibitions, performances, and entertainments exempt from ~~license~~ tax."*

Section 62. G.S. 105-116(d) reads as rewritten:

"(d) Distribution. -- Part of the taxes imposed by this section on electric power ~~companies, natural gas companies, and regional natural gas districts~~ companies is distributed to cities under G.S. 105-116.1."

Section 63.(a) G.S. 105-129.17(b) reads as rewritten:

"(b) Cap. -- ~~A total~~ The credits allowed in this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the

taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of the credits may be carried forward for the succeeding five years."

Section 63.(b) G.S. 105-129.18 reads as rewritten:

"*§ 105-129.18. Substantiation.*

To claim a ~~credits~~ credit allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection."

Section 63.(c) G.S. 105-129.19 reads as rewritten:

"*§ 105-129.19. Reports.*

The Department of Revenue shall report to the Legislative Research Commission and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

(1) The number of taxpayers that claimed the credits allowed in this Article.

(2) The cost of business property and renewable energy property with respect to which ~~business property~~ credits were claimed.

(2a) The location of each qualified North Carolina low-income building with respect to which a low-income housing credit was claimed.

(3) The total cost to the General Fund of the credits claimed."

Section 64.(a) G.S. 105-130.15(a) reads as rewritten:

"(a) The net income of a corporation shall be computed in accordance with the method of accounting it regularly ~~employed~~ employs in keeping ~~the books of such corporation, but such method of accounting must~~ its books. The method must be consistent with respect to both income and ~~deductions, but if in any case such~~ deductions. If this method does not clearly reflect the income, the computation shall be made in accordance with ~~such method as in the opinion of the Secretary of Revenue~~ a method that, in the Secretary's opinion, does clearly reflect the income, but shall follow as nearly as practicable the federal practice, unless contrary to the context and intent of this Part.

The Secretary may ~~in his discretion~~ adopt the rules and regulations and any guidelines administered or established by the Internal Revenue Service unless contrary to any provisions of this Part."

Section 64.(b) G.S. 105-130.17(a) reads as rewritten:

"(a) Returns must be filed as prescribed by the Secretary at the place prescribed by the Secretary. Returns must be in the form prescribed by the Secretary. The Secretary shall furnish forms in

accordance with G.S. 105-254. ~~shall be in such form as the Secretary of Revenue may from time to time prescribe, and shall be filed with the Secretary at his office, or at any branch office which he may establish. The Secretary shall cause to be prepared blank forms for the said returns, and shall cause them to be distributed throughout the State, and shall furnish them upon request; but failure to receive or secure the form shall not relieve any corporation from the obligation of making any return herein required.~~"

Section 64.(c) G.S. 105-130.18 reads as rewritten:

"*§ 105-130.18. Failure to file returns; supplementary returns.*

If the Secretary ~~of Revenue shall be of the opinion that any~~ determines that a corporation has failed to file a return or to include in a return filed, either intentionally or through error, items of taxable ~~income he may require of such~~ income, the Secretary may require from the corporation a return or supplementary return, under affirmation, ~~in such form as he shall prescribe,~~ of all the items of income ~~which~~ that the corporation received during the year for which the return is made, whether or not taxable under this Part. If from a supplementary return or otherwise the Secretary finds that any items of income, taxable under this Part, have been omitted from the original return, ~~or~~ that any items returned as taxable ~~that~~ are not taxable, or that any item of taxable income is overstated or understated, ~~he may require any such item to be disclosed to him~~ the Secretary may require that the item be disclosed under affirmation of the corporation, and ~~to~~ be added to or deducted from the original return. ~~Such~~ The filing of a supplementary return and the correction of the original return ~~shall~~ does not relieve the corporation from any of the penalties ~~to which it may be liable under the provisions of~~ under G.S. 105-236. The Secretary may proceed under the provisions of G.S. 105-241.1, whether or not the Secretary ~~he~~ requires a return or a supplementary return under this section."

Section 65. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(b) Deductions. -- The following deductions from taxable income shall be made in calculating North Carolina taxable income, to the extent each item is included in taxable income:

. . .

(5b) The amount received during the taxable year from one or more State, local, or federal government retirement plans to the extent the amount is exempt from tax under this Part pursuant to a court order in settlement of the following cases: Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS 8230; Emory v. State, 98 CVS 0738; and Patton v. State, 95 CVS 04346. Amounts deducted under this subdivision may not also be deducted under subdivision (6) of this subsection."

Section 66. G.S. 105-163.44 is repealed.

Section 67.(a) G.S. 105-164.4(c) reads as rewritten:

"(c) Certificate of Registration. -- Before a person may engage in business as a

~~Before a person may engage in business as a~~ retailer or a wholesale merchant, the person must obtain a certificate of registration from the ~~Department. To obtain a certificate of registration, a person must register with the Department.~~

~~A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer who makes taxable sales becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales.~~ Department in accordance with G.S. 105-164.29."

Section 67.(b) G.S. 105-164.29 reads as rewritten:

"§ *105-164.29. Application for ~~licenses~~ certificate of registration by wholesale merchants and retailers.*

(a) Application. -- ~~Every application for a license by a wholesale merchant or retailer shall be made upon a form prescribed by the Secretary and shall set forth all information the Secretary may require.~~ To obtain a certificate of registration, a person must register with the Department. A wholesale merchant or retailer who has more than one business is required to obtain only one certificate of registration to cover all operations of the business throughout the State. An application for registration must ~~The application shall~~ be signed as follows:

(1) By the owner, if the owner is an individual.

(2) By a manager, member, or partner, if the owner is an association, a partnership, or a limited liability company.

(3) By an executive officer or some other person specifically authorized by the corporation to sign the application, if the owner is a corporation. If the application is signed by a person authorized to do so by the corporation, written evidence of the person's authority must be attached to the application.

~~A wholesale merchant or retailer whose business extends into more than one county is required to secure only one license to cover all operations of the business throughout the State.~~

(b) Issuance. -- ~~When the required application has been made the Secretary shall issue a license to the applicant. A license~~ A certificate of registration is not assignable and is valid only for the person in whose name it is ~~issued and for the transaction of business at the place designated in the license. The license holder shall display the license conspicuously at all times at the place for which it was issued.~~ issued. A copy of the certificate of registration must be displayed at each place of business.

(c) ~~Reissuance.--~~ Term. --A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer who makes taxable sales becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales. ~~A person whose license has been previously suspended or revoked shall pay the~~

~~Secretary fifteen dollars ($15.00) for the reissuance of the license. A wholesale merchant whose annual license has been previously suspended or revoked shall pay the Secretary twenty-five dollars ($25.00) for the reissuance of the license for the remainder of the license year.~~

(d) Revocation. -- Whenever a ~~license holder~~ wholesale merchant or retailer fails to comply with this Article or violates G.S. 14-401.18, the Secretary, upon hearing, after giving ~~the license holder~~ 10 days' notice in writing, specifying the time and place of hearing and requiring the ~~license holder~~ wholesale merchant or retailer to show cause why the ~~license~~ certificate of registration should not be revoked, may revoke or suspend the ~~license.~~ certificate of registration. The notice may be served personally or by registered mail directed to the last known address of the ~~license holder.~~ wholesale merchant or retailer. All provisions with respect to review and appeals of the Secretary's decisions as provided by G.S. 105-241.2, 105-241.3, and 105-241.4 apply to this section.

~~Any wholesale merchant or retailer who engages in business as a seller in this State without a license or after the license has been suspended or revoked, and each officer of any corporation that so engages in business shall be guilty of a Class 3 misdemeanor and only subject to a fine of up to five hundred dollars ($500.00) for each offense.~~"

Section 67.(c) G.S. 105-164.38 reads as rewritten:

"§ *105-164.38. Tax ~~shall be~~ is a lien.*

(a) The tax imposed by this Article ~~shall be~~ is a lien upon all personal property of any person who is required by this Article to obtain a ~~license~~ certificate of registration to engage in business and who stops engaging in the business by transferring the business, transferring the stock of goods of the business, or going out of business. A person who stops engaging in business ~~shall~~ must file the return required by this Article within 30 days after transferring the business, transferring the stock of goods of the business, or going out of business.

(b) Any person to whom the business or the stock of goods was transferred ~~shall~~ must withhold from the consideration paid for the business or stock of goods an amount sufficient to cover the taxes due until the person selling the business or stock of goods produces a statement from the Secretary showing that the taxes have been paid or that no taxes are due. If the person who buys a business or stock of goods fails to withhold an amount sufficient to cover the taxes and the taxes remain unpaid after the 30-day period allowed, the buyer is personally liable for the unpaid taxes to the extent of the greater of the following:

(1) The consideration paid by the buyer for the business or the stock of goods.

(2) The fair market value of the business or the stock of goods.

(c) The period of limitations for assessing liability against the buyer of a business or the stock of goods of a business and for enforcing the

lien against the property ~~shall expire~~ expires one year after the end of the period of limitations for assessment against the person who sold the business or the stock of goods. Except as otherwise provided in this section, a person who buys a business or the stock of goods of a business and that person's liability for unpaid taxes are subject to the provisions of G.S. 105-241.1, 105-241.2, 105-241.3, and 105-241.4 and to other remedies for the collection of taxes to the same extent as if the person had incurred the original tax liability."

Section 68. G.S. 105-187.6(b) reads as rewritten:

"(b) Partial Exemptions. -- A maximum tax of forty dollars ($40.00) applies when a certificate of title is issued as the result of a transfer of a motor vehicle:

(1) To a secured party who has a perfected security interest in the motor vehicle.

(2) To a partnership, limited liability company, or corporation as an incident to the formation of the partnership, limited liability company, or corporation, and no gain or loss arises on the transfer of the motor vehicle under section 351 or section 721 of the ~~Internal Revenue Code as defined in G.S. 105-228.90,~~ Code, or to a partnership, limited liability company, or corporation by merger, conversion, or consolidation in accordance with applicable law."

Section 69. G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(2) Department. -- The Department of Revenue."

Section 70. G.S. 105-236(10) reads as rewritten:

"(10) Failure to File Informational Returns. --

a. Repealed by Session Laws 1998-212, s. 29A.14(m).

b. The Secretary may request a person who fails to file timely statements of payment to another person with respect to wages, dividends, rents, or interest paid to that person to file the statements by a certain date. If the payer fails to file the statements by that date, the amounts claimed on the payer's income tax return as deductions for salaries and wages, or rents or interest shall be disallowed to the extent that the payer failed to comply with the Secretary's request with respect to the statements.

c. For failure to file an informational return required by Article 36C or 36D of this Chapter by the date the return is due, there shall be assessed a penalty of fifty dollars ($50.00)."

Section 71. G.S. 105-275(40) reads as rewritten:

"~~(40) Computer software and any documentation related to the computer software. As used in this subdivision, the term "computer software" means any program or routine used to cause a computer to perform a specific task or set of tasks. The term includes system and application programs and database storage and management programs.~~

~~The exclusion established by this subdivision does not apply to computer software and its related documentation if the computer software meets one or more of the following descriptions:~~

~~a. It is embedded software. "Embedded software" means computer instructions, known as microcode, that reside permanently in the internal memory of a computer system or other equipment and are not intended to be removed without terminating the operation of the computer system or equipment and removing a computer chip, a circuit, or another mechanical device.~~

~~b. It is purchased or licensed from a person who is unrelated to the taxpayer and it is capitalized on the books of the taxpayer in accordance with generally accepted accounting principles, including financial accounting standards issued by the Financial Accounting Standards Board. A person is unrelated to a taxpayer if (i) the taxpayer and the person are not subject to any common ownership, either directly or indirectly, and (ii) neither the taxpayer nor the person has any ownership interest, either directly or indirectly, in the other.~~

~~This subdivision does not affect the value or taxable status of any property that is otherwise subject to taxation under this Subchapter.~~

~~The provisions of the exclusion established by this subdivision are not severable. If any provision of this subdivision or its application is held invalid, the entire subdivision is repealed.~~

(40) Computer software and any documentation related to the computer software. As used in this subdivision, the term "computer software" means any program or routine used to cause a computer to perform a specific task or set of tasks. The term includes system and application programs and database storage and management programs.

The exclusion established by this subdivision does not apply to computer software and its related documentation if the computer software meets one or more of the following descriptions:

a. It is embedded software. "Embedded software" means computer instructions, known as microcode, that reside permanently in the internal memory of a computer system or other equipment and are not intended to be removed without terminating the operation of the computer system or equipment and removing a computer chip, a circuit, or another mechanical device.

b. It is purchased or licensed from a person who is unrelated to the taxpayer and it is capitalized on the

books of the taxpayer in accordance with generally accepted accounting principles, including financial accounting standards issued by the Financial Accounting Standards Board. A person is unrelated to a taxpayer if (i) the taxpayer and the person are not subject to any common ownership, either directly or indirectly, and (ii) neither the taxpayer nor the person has any ownership interest, either directly or indirectly, in the other.

This subdivision does not affect the value or taxable status of any property that is otherwise subject to taxation under this Subchapter.

The provisions of the exclusion established by this subdivision are not severable. If any provision of this subdivision or its application is held invalid, the entire subdivision is repealed."

Section 72.(a) G.S. 105-275(41), ais amended by Section 1 of S.L. 2000-2, reads as rewritten:

"~~(41)~~ (42) A vehicle that is offered at retail for short-term lease or rental and is owned or leased by an entity engaged in the business of leasing or renting vehicles to the general public for short-term lease or rental. For the purposes of this subdivision, the term 'short-term lease or rental' shall have the same meaning as in ~~G.S. 105-187.1.~~ G.S. 105-187.1, and the term 'vehicle' shall have the same meaning as in G.S. 153A-156(e) and G.S. 160A-215.1(e). A gross receipts tax as set forth by G.S. 153A-156 and G.S. 160A-215.1 is substituted for and replaces the ad valorem tax previously levied on these vehicles."

Section 72.(b) G.S. 105-282.1(a) reads as rewritten:

"(a) Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled thereto. Except as provided below, an owner claiming exemption or exclusion shall annually file an application for exemption or exclusion during the listing period. If the property for which the exemption or exclusion is claimed is appraised by the Department of Revenue, the application shall be filed with the Department. Otherwise, the application shall be filed with the assessor of the county in which the property is situated. An application must contain a complete and accurate statement of the facts that entitle the property to the exemption or exclusion and must indicate the municipality, if any, in which the property is located. Each application filed with the Department of Revenue or an assessor shall be submitted on a form approved by the Department. Application forms shall be made available by the assessor and the Department, as appropriate.

(1) The United States government, the State of North Carolina and the counties and municipalities of the State are exempted

from the requirement that owners file applications for exemption.

(2) Owners of the special classes of property excluded from taxation under G.S. 105-275(5), (15), (16), (26), (31), (32a), (33), (34), ~~or~~ (40), or (42) or exempted under G.S. 105-278.2 are not required to file applications for the exclusion or exemption of that property.

(3) After an owner of property entitled to exemption under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8 or exclusion under G.S. 105-275(3), (7), (8), (12), (17) through (19), (21) or (39), G.S. 105-277.1, or G.S. 105-278 has applied for exemption or exclusion and the exemption or exclusion has been approved, the owner is not required to file an application in subsequent years except in the following circumstances:

a. New or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property; or

b. There is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion.

(4) After an owner of property entitled to exclusion under G.S. 105-277.10 has applied for the exclusion and the exclusion has been approved, the owner is not required to apply for the exclusion in subsequent years so long as the classified property, including classified property acquired after the application is approved, is used or held for use directly in manufacturing or processing as part of industrial machinery.

(5) Upon a showing of good cause by the applicant for failure to make a timely application, an application for exemption or exclusion filed after the close of the listing period may be approved by the Department of Revenue, the board of equalization and review, the board of county commissioners, or the governing body of a municipality, as appropriate. An untimely application for exemption or exclusion approved under this subdivision applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed."

Section 73. Effective January 1, 2001, G.S. 105-369(b1) reads as rewritten:

"(b1) Notice to Owner. -- After the governing body orders the tax collector to advertise the tax liens, the tax collector must send a notice to the listing owner and to the record owner of each affected parcel of property, as determined as of December 31 of the fiscal year for which the taxes are due. The notice must be sent to each owner's last known address by first-class mail at least 30 days before the date the advertisement is to be published. The notice must state the principal amount of unpaid taxes that are a lien on the parcel to be advertised and inform the owner that the names of the listing owner and the

record owner ~~listing owner that his or her name~~ will appear in a newspaper advertisement of delinquent taxes if the taxes are not paid before the publication date. Failure to mail the notice required by this section to the correct listing owner or record owner does not affect the validity of the tax lien or of any foreclosure action."

Section 74. G.S. 105-449.37(a)(1a) reads as rewritten:

"(1a) Motor vehicle. -- A motor vehicle as defined in G.S. ~~105-164.3(8c),~~ 105-164.3 other than special mobile equipment as defined in G.S. ~~105-164.3(16b),~~ 105-164.3."

Section 75.(a) G.S. 105-330.1(b) reads as rewritten:

"(b) Exceptions. -- The following motor vehicles are not classified under subsection (a) of this section:

(1) Motor vehicles exempt from registration pursuant to G.S. 20-51.

(2) Manufactured homes, mobile classrooms, and mobile offices.

(3) Semitrailers or trailers registered on a multiyear basis.

(4) Motor vehicles owned or leased by a public service company and appraised under G.S. 105-335.

~~(5) "U-drive-it" passenger vehicles registered under G.S. 20-87(2).~~"

Section 75.(b) G.S. 153A-156, as enacted by Section 2 of S.L. 2000-2, reads as rewritten:

"*§ 153A-156. Gross receipts tax on short-term leases or rentals.*

(a) As a substitute for and in replacement of the ad valorem tax, which is excluded by G.S. ~~105-275(41),~~ 105-275(42), a county may levy a gross receipts tax on the gross receipts from the short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed one and one-half percent (1.5%) of the gross receipts from such short-term leases or rentals.

(b) If a county enacts the substitute and replacement gross receipts tax pursuant to this section, any entity required to collect the tax shall include a provision in each retail short-term lease or rental agreement noting that the percentage amount enacted by the county of the total lease or rental price, excluding ~~sales~~ highway use tax, is being charged as a tax on gross receipts. For purposes of this section, the transaction giving rise to the tax shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle. The tax shall be collected at the time of lease or rental and placed in a segregated account until remitted to the county.

(c) The collection and use of taxes under this section are not subject to ~~sales~~ highway use tax and are not included in the gross receipts of the entity. The proceeds collected under this section belong to the county and are not subject to creditor liens against the entity.

(d) A tax levied under this section shall be collected by the county but otherwise administered in the same manner as the tax levied under G.S. 105-164.4(a)(2).

(e) The following definitions apply in this section:

(1) Vehicle. -- Any of the following:

a. A motor vehicle of the ~~private~~ passenger type, including a passenger van, minivan, or sport utility vehicle.
b. A motor vehicle of the cargo type, including cargo van, pickup truck, or truck with a gross vehicle weight of 26,000 pounds or less used predominantly in the transportation of property for other than commercial freight and that does not require the operator to possess a commercial drivers license.
c. A trailer or semitrailer with a gross vehicle weight of 6,000 pounds or less.

(2) Short-term lease or rental. -- Defined in G.S. 105-187.1(4).

(f) The penalties and remedies that apply to local sales and use taxes levied under Subchapter VIII of ~~this~~ Chapter 105 of the General Statutes apply to a tax levied under this section. The county board of commissioners may exercise any power the Secretary of Revenue may exercise in collecting local sales and use taxes."

Section 75.(c) G.S. 160A-215.1, as enacted by Section 3 of S.L. 2000-2, reads as rewritten:

"*§ 160A-215.1. Gross receipts tax on short-term leases or rentals.*

(a) As a substitute for and in replacement of the ad valorem tax, which is excluded by G.S. ~~105-275(41),~~ 105-275(42), a city may levy a gross receipts tax on the gross receipts from the short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed one and one-half percent (1.5%) of the gross receipts from such short-term leases or rentals. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. 160A-211.

(b) If a city enacts the substitute and replacement gross receipts tax pursuant to this section, any entity required to collect the tax shall include a provision in each retail short-term lease or rental agreement noting that the percentage amount enacted by the city of the total lease or rental price, excluding ~~sales~~ highway use tax, is being charged as a tax on gross receipts. For purposes of this section, the transaction giving rise to the tax shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle. The tax shall be collected at the time of lease or rental and placed in a segregated account until remitted to the city.

(c) The collection and use of taxes under this section are not subject to ~~sales~~ highway use tax and are not included in the gross receipts of the entity. The proceeds collected under this section belong to the city and are not subject to creditor liens against the entity.

(d) A tax levied under this section shall be collected by the city but otherwise administered in the same manner as the tax levied under G.S. 105-164.4(a)(2).

(e) The following definitions apply in this section:

(1) Vehicle. -- Any of the following:
a. A motor vehicle of the ~~private~~ passenger type, including a passenger van, minivan, or sport utility vehicle.
b. A motor vehicle of the cargo type, including cargo van, pickup truck, or truck with a gross vehicle weight of

26,000 pounds or less used predominantly in the transportation of property for other than commercial freight and that does not require the operator to posses a commercial drivers license.

c. A trailer or semitrailer with a gross vehicle weight of 6,000 pounds or less.

(2) Short-term lease or rental. -- Defined in G.S. 105-187.1.

(f) The penalties and remedies that apply to local sales and use taxes levied under Subchapter VIII of ~~this~~ Chapter 105 of the General Statutes apply to a tax levied under this section. The governing body of the city may exercise any power the Secretary of Revenue may exercise in collecting local sales and use taxes."

Section 75.(d) This section becomes effective July 1, 2000.

Section 76.(a) G.S. 113B-2 reads as rewritten:

"*§ 113B-2. Creation of Energy Policy Council; purpose of Council.*

(a) There is hereby created a council to advise and make recommendations on energy policy to the Governor and the General Assembly to be known as the Energy Policy Council which shall be located within the Department of ~~Commerce.~~ Administration.

(b) Except as otherwise provided in this Chapter, the powers, duties and functions of the Energy Policy Council shall be as prescribed by the Secretary of ~~Commerce.~~ Administration.

(c) The Energy Policy Council shall serve as the central energy policy planning body of the State and shall communicate and cooperate with federal, State, regional and local bodies and agencies to the end of effecting a coordinated energy policy."

Section 76.(b) G.S. 113B-6 reads as rewritten:

"*§ 113B-6. General duties and responsibilities.*

The Energy Policy Council shall have the following general duties and responsibilities:

(1) To develop and recommend to the Governor a comprehensive long- range State energy policy to achieve maximum effective management and use of present and future sources of energy, such policy to include but not be limited to an energy ~~conservation plan,~~ efficiency program, an energy management plan, an emergency energy program, and an energy research and development program;

(2) To conduct an ongoing assessment of the opportunities and constraints presented by various uses of all forms of energy and to encourage the efficient use of all such energy forms in a manner consistent with State energy policy;

(3) To continually review and coordinate all State government research, education and management programs relating to energy matters and to continually educate and inform the general public regarding such energy matters;

(4) To recommend to the Governor and to the General Assembly needed energy legislation and to recommend for implementation such modifications of energy policy, plans

and programs as the Council considers necessary and desirable."

Section 76.(c) G.S. 113B-7 reads as rewritten:

"*§ 113B-7. Energy ~~Conservation Plan;~~ Efficiency Program; components.*

(a) The Energy Policy Council shall prepare a recommended Energy ~~Conservation Plan~~ Efficiency Program for transmittal to the Governor, the initial plan to be completed by January 30, 1976.

(b) The Energy ~~Conservation Plan~~ Efficiency Program shall be designed to assure the public health and safety of the people of North Carolina and to encourage and promote conservation of energy through reducing wasteful, inefficient or uneconomical uses of energy resources.

(c) The Energy ~~Conservation Plan~~ Efficiency Program shall include but not be limited to the following recommendations:

(1) Recommendations to the Building Code Council for lighting, insulation, climate control systems and other building design and construction standards which increase the efficient use of energy and are economically feasible to implement;

(2) Recommendations to the Building Code Council for per unit energy requirement allotments based upon square footage for various classes of buildings which would reduce energy consumption, yet are both technically and economically feasible and not injurious to public health and safety;

(3) Recommendations for minimum levels of operating efficiency for all appliances whose use requires a significant amount of energy based upon both technical and economic feasibility considerations;

(4) Recommendations for State government purchases of supplies, vehicles and equipment and such operating practices as will make possible more efficient use of energy;

(5) Recommendations on energy conservation policies, programs and procedures for local units of government;

(6) Any other recommendations which the Energy Policy Council considers to be a significant part of a statewide conservation effort and which include provisions for sufficient incentives to further energy conservation;

(7) An economic and environmental impact analysis of the recommended ~~plan.~~ program.

(d) In addition to specific conservation recommendations, the Energy ~~Conservation Plan~~ Efficiency Program shall contain proposals for implementation of such recommendations as can be carried out by executive order. Upon completion of a draft recommended ~~plan,~~ program, the Council shall arrange for its distribution to interested parties and shall make ~~such plan~~ the program available to the public and the Council further shall set a date for public hearing on said ~~plan.~~ program.

(e) Upon completion of the Energy ~~Conservation Plan,~~ Efficiency Program, the Council shall transmit said ~~plan,~~ program, to be known as the State Energy ~~Conservation Plan,~~ Efficiency Program, to the

Governor for approval or disapproval. Upon approval, the Governor shall assign administrative responsibility for such implementation as can be carried out by executive order to appropriate agencies of State government, and submit to the General Assembly such proposals which require legislative action for implementation. The Governor shall have the authority to accept, administer, and enforce federal programs, program measures and permissive delegations of authority delegated to the Governor by the President of the United States, Congress, or the United States Department of Energy, on behalf of the State of North Carolina, which pertain to the conservation of energy resources.

(f) The Governor shall transmit the approved Energy ~~Conservation Plan~~ Efficiency Program to the President of the Senate, to the Speaker of the House of Representatives, to the heads of all State agencies and shall further seek to publicize such plan and make it available to all units of local government and to the public at large.

(g) At least every two years and whenever such changes take place as would significantly affect energy supply or demand in North Carolina, the Energy Policy Council shall review and, if necessary, revise the Energy ~~Conservation Plan,~~ Efficiency Program, transmitting such revised plan to the Governor pursuant to the procedures contained in subsections (e) and (f) of this section."

Section 76.(d) G.S. 113B-11 reads as rewritten:

"§ *113B-11. Powers and authority.*

(a) The Energy Policy Council is authorized to secure directly from any officer, office, department, commission, board, bureau, institution and other agency of the State and its political subdivisions any information it deems necessary to carry out its functions; and all such officers and agencies shall cooperate with the Council and, to the extent permitted by law, furnish such information to the Council as it may request.

(b) To assure the adequate development of relevant energy information, as provided in G.S. 113B-10, the Council may require all energy producers and major energy consumers, as determined by the Council, to file such reports and forecasts and at such dates as the Council may request; provided, however, that the Council may request only specific energy-related information which it deems necessary to carry out its duties as defined in Articles 1 and 2 of this Chapter.

(c) The Council shall have authority to apply for and utilize grants, contributions and appropriations in order to carry out its duties as defined in Articles 1 and 2 of this Chapter, provided, however, that all such applications and requests are made through and administered by the Department of ~~Commerce.~~ Administration.

(d) The Council shall have authority to request said Department to allocate and dispense any funds made available to the Council for energy research and related work efforts in such a manner as the Council desires subject only to the stipulation that said funds be reasonably used in furtherance of the purposes of this Article.

(e) The ~~Energy Division of the~~ Department of ~~Commerce~~ Administration shall provide the staffing capability to the Energy Policy Council so as to fully and effectively develop recommendations for a comprehensive State energy policy as contained in the provisions of this Article. The Utilities Commission is hereby authorized to make its staff available to the Council to assist in the development of a State energy policy."

Section 76.(e) G.S. 114-4.2D reads as rewritten:

"§ *114-4.2D. Employment of attorney for ~~Energy Division~~ Energy Policy Council and Energy Efficiency Program of Department of ~~Commerce.~~ Administration.*

The Attorney General shall assign an attorney on his staff to work full time with the Energy ~~Division~~ Policy Council and Energy Efficiency Program of the Department of ~~Commerce.~~ Administration. Such attorney shall be subject to all provisions of Chapter 126 of the General Statutes relating to the State Personnel System. Such attorney shall also perform such additional duties as may be assigned to him by the Attorney General."

Section 76.(f) G.S. 143-64.12 reads as rewritten:

"§ *143-64.12. Authority and duties of State agencies.*

(a) The General Assembly authorizes and directs that State agencies shall carry out the construction and renovation of State facilities, under their jurisdiction in such a manner as to further the policy declared herein, insuring that life-cycle cost analyses and energy-conservation practices are considered and are employed whenever feasible and practicable.

(b) The ~~Department of Administration, in consultation with the Energy Division,~~ Department of Administration shall, to the extent feasible and practicable, develop and implement policies, procedures, and standards to ensure that State purchasing practices improve energy efficiency and take the cost of the product over the economic life of the product into consideration. The ~~Department of Administration, in consultation with the Energy Division,~~ Department of Administration shall adopt and implement Building Energy Design Guidelines. These guidelines shall include energy-use goals and standards, economic assumptions for life-cycle cost analysis, and other criteria on building systems and technologies. The Department of Administration shall modify the design criteria for construction and renovation of facilities to require that a life-cycle cost analysis be conducted pursuant to G.S. 143-64.15. The Department of Administration, as part of the Facilities Condition and Assessment Program, shall identify and recommend energy conservation maintenance and operating procedures that are designed to reduce energy consumption within the facility and that require no significant expenditure of funds. State departments, institutions, or agencies shall implement these recommendations. Where energy management equipment is proposed for State facilities, the maximum interchangeability and compatibility of equipment components shall be required.

The ~~Energy Division~~ Department of Administration shall develop a comprehensive energy management program for State government. Each State agency shall develop and implement an energy management plan that is consistent with the State's comprehensive energy management program.

(c)-(g) Repealed by Session Laws 1993, c. 334, s. 4."

Section 76.(g) G.S. 143-341 reads as rewritten:

"*§ 143-341. Powers and duties of Department.*

The Department of Administration has the following powers and duties:

. . .

(11) Energy-related matters. -- To exercise those powers and perform those duties prescribed in Article 1 of Chapter 113B and Part 1 of Article 3B of Chapter 143 of the General Statutes and Parts 2 and 3 of this Article."

Section 76.(h) G.S. 143-334 through G.S. 143-345.9 are designated "Part 1. General Provisions." of Article 36 of Chapter 143 of the General Statutes.

Section 76.(i) Article 36 of Chapter 143 of the General Statutes, as amended by subsection (a) of this section, is further amended by adding new Parts to read:

"Part 2. Stocks of Coal and Petroleum Fuels.

"*§ 143-345.13. Reporting of stocks of coal and petroleum fuels.*

The Department of Administration may, with the prior express approval of the Energy Policy Council and the Governor, require that all coal and petroleum suppliers in North Carolina supplying coal, motor gasoline, middle distillates, residual oils, and propane for resale within the State, file with the Department of Administration, on forms prepared by the Department, accurate reports as to the stocks of coal and petroleum products and storage capacities maintained by the supplier, including the supplier's current inventory and stock of coal, motor gasoline, middle distillates, residual oils and propane, the expected time such supplies will last under ordinary distribution demand and the schedule for receiving additional or replacement stocks. The reports and the information contained therein shall be proprietary information available only to regular employees of the Department of Administration, except that aggregate tables or schedules consolidating information from the reports may be released if they do not reveal individual report data for any named supplier. It is further the intent of this section that no information shall be required from coal and petroleum suppliers, that is, at the time the reports are requested, already on file with any agency, commission, or department of State government.

It is the intent of this section that the reports be filed only at such times as the Energy Policy Council and the Governor determine that an energy crisis as defined in G.S. 113B-20 exists or may be imminent.

If any petroleum or coal supplier fails to file the accurate reports as may be required by this section for more than 10 days after the date

on which any such report is due, the Secretary of Administration is authorized and empowered to petition the district court, Division of the General Court of Justice, in the county in which the principal office or place of business of the supplier is located, for a mandatory injunction compelling the supplier to file the report.

"§ *143-345.14. Authority to collect data; administration and enforcement; confidentiality.*

(a) The Department of Administration shall have the authority to obtain from prime suppliers of petroleum products specific petroleum supply data concerning State-level sales and projected sales by month for North Carolina that is currently reported on the federal Form EIA-782C, 'Monthly Report of Petroleum Products Sold in States for Consumption' or its successor, at such time that these data requirements are not being met through any federal reporting procedure. The petroleum products subject to this reporting requirement are: finished gasoline (all grades), #1 distillate, kerosene, #2 fuel oil, #2 diesel fuel, aviation gasoline (finished), kerosene-type jet fuel, naphtha-type jet fuel, #4 fuel, residual fuel oil (less than or equal to one percent sulfur), residual fuel oil (greater than one percent sulfur), propane (consumer grade). The authority to collect energy data from suppliers of petroleum products into North Carolina, that is granted to the Department of Administration in this section, shall be limited to the petroleum volume data that is reported on the Form EIA-782C or its successor.

(b) 'Prime suppliers' shall be defined as those suppliers which make the first sale of the named product into North Carolina, excluding jobbers, distributors, and retail dealers.

(c) The Department of Administration shall adopt rules and regulations for the administration of this data collection program and the Attorney General and the law enforcement authorities of the State and its political subdivisions shall enforce the provisions of this section and all orders, rules, and regulations promulgated thereunder. Any enforcement action may be brought upon the relation of the Department of Administration or the direction of the Attorney General.

(d) Any person or corporation who willfully refuses to provide the petroleum supply data in accordance with the conditions described herein, or who knowingly or willfully submits false information in any reports required herein or refuses to file any reports shall be guilty of a Class 1 misdemeanor.

(e) Any civil action brought to enforce the provisions of this section shall be brought in the Superior Court of Wake County or in the superior court of the county in which the acts or practices constituting a violation occurred or are occurring.

(f) The Department of Administration shall keep confidential any individually identifiable energy information to the extent necessary to comply with the confidentiality requirements of the reporting agency, and any such information shall not be subject to the public disclosure requirements of G.S. 132-6. 'Individually identifiable energy information' shall be defined as any individual record or portion of a

record or aggregated data containing energy information about a person or persons obtained from any source, the disclosure of which could reasonably be expected to reveal information about a specific person.

'Part 3. Business Energy Improvement Program.

"§ 143-345.16. *Short title.*

This Part shall be known as the Business Energy Improvement Program.

"§ 143-345.17. *Legislative findings and purpose.*

The General Assembly finds and declares that it is in the best interest of the citizens of North Carolina to promote and encourage energy efficiency within the State's industrial and commercial base in order to conserve energy, promote economic competitiveness, and expand employment in the State.

"§ 143-345.18. *Lead agency; powers and duties.*

(a) For the purposes of this Part, the Department of Administration is designated as the lead State agency in matters pertaining to industrial and commercial energy conservation.

(b) The Department shall have the following powers and duties with respect to this Part:

(1) To provide industrial and commercial concerns doing business in North Carolina with information and assistance in undertaking energy conserving capital improvement projects to enhance industrial and commercial capacity.

(2) To establish a revolving fund within the Department for the purpose of providing secured loans in amounts not greater than five hundred thousand dollars ($500,000) per business entity to install energy-efficient capital improvements within businesses located within or translocating to North Carolina. In providing these loans, priority shall be given to businesses already located in the State.

(3) To work with appropriate State and federal agencies to develop and implement rules and regulations to facilitate this program.

(c) The annual interest rate charged for the use of the funds from the revolving fund established pursuant to subdivision (b)(2) of this section shall be one-half of the 90-day rate for United States Treasury Bills, not to exceed five percent (5%) per annum, excluding other fees required for loan application review and origination. The term of any loan originated under this section may not be greater than seven years.

(d) In accordance with the terms of the Stripper Well Settlement, administrative expenses for activities under this section shall be limited to five percent (5%) of funds appropriated for this purpose."

Section 76.(j) G.S. 143B-433 reads as rewritten:

"§ 143B-433. *Department of Commerce -- organization.*

The Department of Commerce shall be organized to include:

(1) The following agencies:

a. The North Carolina Alcoholic Beverage Control Commission.

b. The North Carolina Utilities Commission.
c. The Employment Security Commission.
d. The North Carolina Industrial Commission.
e. State Banking Commission.
f. Savings and Loan Association Division.
g. The State Savings Institutions Commission.
h. Credit Union Commission.
i. The North Carolina Milk Commission.
j. The North Carolina Mutual Burial Association Commission.
k. North Carolina Cemetery Commission.
l. The North Carolina Rural Electrification Authority.
m. Repealed by Session Laws 1985, c. 757, s. 179(d).
n. North Carolina Science and Technology Research Center.
o. The North Carolina State Ports Authority.
p. North Carolina National Park, Parkway and Forests Development Council.
q. Economic Development Board.
r. Labor Force Development Council.
~~s. Energy Policy Council.~~
~~t. Energy Division.~~
u. Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes.
v. Repealed by Session Laws 1993, c. 321, s. 313b.

(2) Those agencies which are transferred to the Department of Commerce including the:
a. Community Assistance Division.
b. Community Development Council.
c. Employment and Training Division.
d. Job Training Coordinating Council.

(3) Such divisions as may be established pursuant to Article 1 of this Chapter."

Section 76.(k) Parts 8 and 14 of Article 10 of Chapter 143B of the General Statutes are repealed.

Section 76.(l) This section becomes effective September 30, 2000.

Section 77. G.S. 115C-47(18), as amended by Section 8.18(b) of S.L. 2000-67, reads as rewritten:

"(18) To Make Rules Concerning the Conduct and Duties of Personnel. -- Local boards of education, upon the recommendation of the superintendent, shall have full power to make all just and needful rules and regulations governing the conduct of teachers, principals, and supervisors, the kind of reports they shall make, and their duties in the care of school property.

Prior to the beginning of each school year, each local board of education shall identify all reports, including local school required reports, that are required at the local

level for the school year and shall, to the maximum extent possible, eliminate any duplicate or obsolete reporting requirements. No additional reports shall be required at the local level after the beginning of the school year without the prior approval of the local board of education.

Each local board of education shall appoint a person or establish a paperwork control committee to monitor all reports and other paperwork ~~produced by or~~ required of teachers by the central office."

Section 78. Part 3 of Article 2 of Chapter 143B of the General Statutes is repealed.

Section 79.(a) G.S. 143B-434.1 reads as rewritten:

"*§ 143B-434.1. The North Carolina Travel and Tourism Board -- creation, duties, membership.*

(a) There is created within the Department of Commerce the North Carolina Travel and Tourism Board. The Secretary of Commerce and the Director of the Division of ~~Travel and Tourism~~ Tourism, Film, and Sports Development will work with the Board to fulfill the duties and requirements set forth in this section, and to promote the sound development of the travel and tourism industry in North Carolina.

(b) The function and duties of the Board shall be:

(1) To advise the Secretary of Commerce in the formulation of policy and priorities for the promotion and development of travel and tourism in the State.

(2) To advise the Secretary of Commerce in the development of a budget for the Division of ~~Travel and Tourism.~~ Tourism, Film, and Sports Development.

(3) To recommend programs to the Secretary of Commerce that will promote the State as a travel and tourism destination and that will develop travel and tourism opportunities throughout the State.

(4) To advise the Secretary of Commerce every three months as to the effectiveness of agencies with which the Department has contracted for advertising and regarding the selection of an advertising agency that will assist the Department in the promotion of the State as a travel and tourism destination.

(5) To name a three-member subcommittee, with one member from each of the eastern, central, and western regions of the State, to make recommendations to the Secretary of Commerce regarding any revisions in the matching funds tourism grants program, project applications, and criteria for projects that qualify for participation in the program.

(6) To advise the Secretary of Commerce from time to time as to the effectiveness of the overall operations of the Division of ~~Travel and Tourism.~~ Tourism, Film, and Sports Development.

(7) To promote the exchange of ideas and information on travel and tourism between State and local governmental agencies, and private organizations and individuals.

(8) To advise the Secretary of Commerce upon any matter that the Secretary, Governor, or Director of the Division of ~~Travel and Tourism~~ Tourism, Film, and Sports Development may refer to it.

(c) The Board shall consist of 27 members as follows:

(1) The Secretary of Commerce, who shall not be a voting member.

(2) The Director of the Division of ~~Travel and Tourism,~~ Tourism, Film, and Sports Development, who shall not be a voting member.

(3) Two members designated by the Board of Directors of the North Carolina Hotel and Motel Association.

(4) Two members designated by the Board of Directors of the North Carolina Restaurant Association.

(5) Three Directors of Convention and Visitor Bureaus designated by the Board of Directors of the North Carolina Association of Convention and Visitor Bureaus.

(6) The Chairperson of the Travel and Tourism Coalition.

(7) The President of the Travel Council of North Carolina.

(8) A member designated by the Board of Directors of the Travel Council of North Carolina.

(9) The President of North Carolina Citizens for Business and Industry.

(10) One member designated by the North Carolina Petroleum Marketers Association.

(11) One person associated with tourism attractions in North Carolina, appointed by the Speaker of the House of Representatives. One person who is not a member of the General Assembly, appointed by the Speaker of the House of Representatives.

(12) One person associated with the tourism-related transportation industry, appointed by the President Pro Tempore of the Senate. One person who is not a member of the General Assembly, appointed by the President Pro Tempore of the Senate.

(13) Four public members each interested in matters relating to travel and tourism, two appointed by the Governor (one from a rural area and one from an urban area), one appointed by the Speaker of the House, and one appointed by the President Pro Tempore of the Senate.

(14) One member associated with the major cultural resources and activities of the State in North Carolina, appointed by the Governor.

(15) Two members of the House of Representatives, appointed by the Speaker of the House of Representatives.

(16) Two members of the Senate, appointed by the President Pro Tempore of the Senate.

(d) The members of the Board shall serve the following terms: the Secretary of Commerce, the Director of the Division of ~~Travel and Tourism,~~ Tourism, Film, and Sports Development, the Chairperson of the Travel and Tourism Coalition, the President of the Travel Council of North Carolina, and the President of North Carolina Citizens for Business and Industry shall serve on the Board while they hold their respective offices. Each member of the Board appointed by the Governor shall serve during his or her term of office. The members of the Board appointed by the General Assembly shall serve two-year terms beginning on January 1 of odd-numbered years and ending on December 31 of the following year. The first such term shall begin on January 1, 1991, or as soon thereafter as the member is appointed to the Board, and end on December 31, 1992. All other members of the Board shall serve a term which consists of the portion of calendar year 1991 that remains following their appointment or designation and, thereafter, two-year terms which shall begin on January 1 of an even-numbered year and end on December 31 of the following year. The first such two-year term shall begin on January 1, 1992, and end on December 31, 1994.

(e) No member of the Board, except a member serving by virtue of his or her office, shall serve during more than five consecutive calendar years, except that a member shall continue to serve until his or her successor is appointed.

(f) Appointments to fill vacancies in the membership of the Board that occur due to resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term and shall be made by the same appointing authority that made the initial appointment.

(g) Board members who are employees of the State shall receive travel allowances at the rate set forth in G.S. 138-6. Board members who are legislators shall be reimbursed for travel and subsistence in accordance with G.S. 120-3.1. All other Board members, except those serving pursuant to subdivisions (3) through (10) of subsection (c) of this section, shall receive per diem, subsistence, and travel expenses at the rate set forth in G.S. 138-5. Board members serving pursuant to subdivisions (3) through (10) of subsection (c) of this section shall not receive per diem, subsistence, or travel expenses. The expenses set forth in this section shall be paid by the Division of ~~Travel and Tourism~~ Tourism, Film, and Sports Development of the Department of Commerce.

(h) At its first meeting in 1991, the Board shall elect one of its voting members to serve as Chairperson during calendar year 1991. At its last regularly scheduled meeting in 1991, and at its last regularly scheduled meeting in each year thereafter, the Board shall elect one of its voting members to serve as Chairperson for the coming calendar year. No person shall serve as Chairperson during more than

three consecutive calendar years. The Chairperson shall continue to serve until his or her successor is elected.

(i) A majority of the current voting membership shall constitute a quorum.

(j) The Secretary of Commerce shall provide clerical and other services as required by the Board."

Section 79.(b) G.S. 143B-434.2(d) reads as rewritten:

"(d) The Department of Commerce, and the Division of ~~Travel and Tourism~~ Tourism, Film, and Sports Development within that Department, shall implement the policies set forth in this section. The Division of ~~Travel and Tourism~~ Tourism, Film, and Sports Development shall make an annual report to the General Assembly regarding the status of the travel and tourism industry in North Carolina; the report shall be submitted to the General Assembly by January 15 of each year beginning January 15, 1992. The duties and responsibilities of the Department of Commerce through the Division of ~~Travel and Tourism~~ Tourism, Film, and Sports Development shall be to:

(1) Organize and coordinate programs designed to promote tourism within the State and to the State from other states and foreign countries.

(2) Measure and forecast tourist volume, receipts, and impact, both social and economic.

(3) Develop a comprehensive plan to promote tourism to the State.

(4) Encourage the development of the State's tourism infrastructure, facilities, services, and attractions.

(5) Cooperate with neighboring states and the federal government to promote tourism to the State from other countries.

(6) Develop opportunities for professional education and training in the tourism industry.

(7) Provide advice and technical assistance to local public and private tourism organizations in promoting tourism to the State.

(8) Encourage cooperation between State agencies and private individuals and organizations to advance the State's tourist interests and seek the views of these agencies and the private sector in the development of State tourism programs and policies.

(9) Give leadership to all concerned with tourism in the State.

(10) Perform other functions necessary to the orderly growth and development of tourism.

(11) Develop informational materials for visitors which, among other things, shall:

a. Describe the State's travel and tourism resources and the State's history, economy, political institutions, cultural resources, outdoor recreational facilities, and principal festivals.

b. Urge visitors to protect endangered species, natural resources, archaeological artifacts, and cultural treasures.

c. Instill the ethic of stewardship of the State's natural resources.

(12) Foster an understanding among State residents and civil servants of the economic importance of hospitality and tourism to the State.

(13) Work with local businesses, including banks and hotels, with educational institutions, and with the United States Travel and Tourism Administration, to provide special services for international visitors, such as currency exchange facilities.

(14) Encourage the reduction of architectural and other barriers which impede travel by physically handicapped persons."

Section 79.(c) The Revisor of Statutes shall change the term "Division of Travel and Tourism" to "Division of Tourism, Film, and Sports Development" wherever it appears in the General Statutes.

Section 80. G.S. 159-13(b)(6) reads as rewritten:

"(6) The estimated percentage of collection of property taxes shall not be greater than the percentage of the levy actually realized in cash as of June 30 during the preceding fiscal year. For purposes of the calculation under this subdivision only, the levy for the registered motor vehicle tax under Article ~~22C~~ 22A of Chapter 105 of the General Statutes shall be based on the nine-month period ending March 31 of the preceding fiscal year, and the collections realized in cash with respect to this levy shall be based on the ~~twelve month~~ 12-month period ending June 30 of the preceding fiscal year."

Section 81. G.S. 163-132.1(d) reads as rewritten:

"(d) Freezing of Precincts. --

(1) Notwithstanding the provisions of G.S. 163-132.3, after the Executive Secretary-Director approves the precincts in accordance with subsection (c) of this section and before January 2, 2002, no county board of elections may establish, alter, discontinue, or create any precinct except by division of one precinct into two or more precincts using lines that the Census Bureau has indicated it will use as 2000 Census block boundaries for that division. Provided that, whenever an annexation ordinance adopted under Parts 1, 2, or 3 of Article 4A of Chapter 160A of the General Statutes, or a local act of the General Assembly annexing property to a municipality, becomes effective during the period beginning with the date of the annexation as reported through the U.S. Census Bureau's 1998 Boundary and Annexation Survey or a subsequent edition of that survey and ending January 2, 2002, and any part of the boundary of the area being annexed which is actually contiguous to the

city is also a precinct boundary for elections administered by the county board of elections then the county board of elections may exercise one of the following options:

~~(1)~~ a. Direct by resolution that the annexed area is automatically moved into the 'city precinct', provided that if the annexed area is adjacent to more than one city precinct, the board of elections shall place the area in any one or more of the adjacent city precincts.

~~(2)~~ b. Adopt a resolution moving the precinct boundary to a ~~visible feature~~ line that the Census Bureau has indicated it will use as a 2000 block boundary.

(2) The Executive Secretary-Director of the State Board of Elections may permit during the freeze a correction to a county's precincts as they were approved pursuant to subsection (c) of this section where one of the following sets of conditions is present:

a. A precinct was designated pursuant to subsection (c) inaccurately, and the United States Bureau of the Census agrees to include the corrected precinct on its database for the 2000 Census.

b. The boundary of a precinct designated pursuant to subsection (c) of this section was subsequently removed by the United States Bureau of the Census as an acceptable feature for a precinct line based upon a determination by the Bureau that the feature did not exist as shown, and the county board of elections agrees by resolution to an alternative boundary for the precinct on a feature the Bureau does find acceptable.

(3) The county board of elections may move a precinct line from a township line to another line the Census Bureau has indicated will be a 2000 block boundary if a Boundary and Annexation Survey issued during the freeze shows that the township line has moved to a location the county board of elections considers unsuitable. This subdivision does not apply if local legislation enacted by the General Assembly governs the relationship between a county's township lines and precinct lines.

(4) The county board of elections shall submit any proposed change made during the freeze under this subsection to the Legislative Services Office, which shall review the proposal and write a letter advising the Executive Secretary-Director of its opinion as to the legal compliance of the proposal. If the proposal complies with the law, the Executive Secretary-Director shall approve the proposal. No newly created or altered precinct boundary is effective until approved by the Executive Secretary-Director as being in compliance with the provisions of this subsection."

Section 82. G.S. 163-278.5 reads as rewritten:

"*§ 163-278.5. Scope of Article; severability.*

The provisions of this Article apply to primaries and elections for North Carolina offices and to North Carolina referenda and do not apply to primaries and elections for federal offices or offices in other ~~States.~~ States or to non-North Carolina referenda. Any provision in this Article that regulates a non-North Carolina entity does so only to the extent that the entity's actions affect elections for North Carolina ~~offices.~~ offices or North Carolina referenda.

The provisions of this Article are severable. If any provision is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the Article that can be given effect without the invalid provision."

Section 83. G.S. 163-278.39A(a) reads as rewritten:

"(a) Expanded Disclosure Requirements. -- ~~In addition to the basic disclosure requirements in G.S. 163-278.39, any~~ Any political campaign advertisement on radio or television shall comply with the expanded disclosure requirements set forth in this section. To the extent that it provides the same information required by G.S. 163-278.39, a statement made pursuant to this section satisfies the requirements of G.S. 163-278.39 for the same advertisement."

Section 84. G.S. 163-278.39A(i) reads as rewritten:

"(i) No Criminal Liability. -- Nothing in this section regarding the disclosure requirements in subsections (b) and (c) of this section shall be relied upon or otherwise interpreted to create criminal ~~liability for any person.~~ liability."

Section 85. Section 14 of S.L. 1998-22 reads as rewritten:

"Section 14. (a) Notwithstanding G.S. 105-187.44(b), as enacted by this act, the amount distributed to a city under G.S. 105-187.44(b) for taxes collected for each of the quarters in the ~~fiscal year~~ 1999-2000 and 2000-2001 fiscal years may not exceed its benchmark amount until each city receives an amount equal to its benchmark amount. Each quarter, the Secretary of Revenue shall determine a city's benchmark amount and the amount it would receive under G.S. 105-187.44(b) if not for the redistribution required by this section. The Secretary shall identify those cities whose distribution amounts under G.S. 105-187.44(b) are less than their benchmark amounts and shall determine the total dollar amount of the shortfall. The Secretary shall reduce the amount to be distributed to those cities whose distribution amount under G.S. 105-187.44(b) exceeds their benchmark amount by the total dollar amount of the shortfall determined for that quarter in proportion to each city's excess. However, in no event may a city's distribution amount be reduced below its benchmark amount. The Secretary will redistribute these monies to the cities whose distribution amounts under G.S. 105-187.44(b) are less than their benchmark amounts in proportion to each city's shortfall. In any quarter that a city does not have a prior year's distribution for the corresponding quarter in fiscal year 1998-99, that city is excluded from the redistribution required under this section for that quarter. In that case, the city will receive the amount

it is entitled to receive under G.S. 105-187.44(b), as enacted by this act.

For the purposes of this subsection, the term 'benchmark amount' means the amount a city received under G.S. 105-116.1 attributable to piped natural gas for the corresponding quarter during the fiscal year 1998-99.

(b) The Department of Revenue must calculate the amount a city received for taxes collected for each of the ~~first three~~ quarters in fiscal year 1998-99 under G.S. 105-116.1 that was attributable to piped natural gas. The Department must also calculate the amount each city would have received under G.S. 105-187.44(b), as enacted by this act, for taxes collected for each of the ~~first three~~ quarters in fiscal year 1999-2000. The Department shall give this information to the Revenue Laws Study Committee. The Revenue Laws Study Committee shall study the impact of this act on the distribution of part of the proceeds of the excise tax on piped natural gas to the cities and report its findings, and any recommendation, to the ~~2000 Session of the 1999~~ 2001 General Assembly."

Section 87. Section 3 of S.L. 1999-321 is repealed.

Section 88. Section 33 of S.L. 1999-360 reads as rewritten:

"Section 33. Affordable Housing Credit. -- Part III of this act is effective for taxable years beginning on or after January 1, ~~2000, and applies~~ 2000. Sections 10 through 15 of Part III apply to buildings to which federal credits are allocated on or after January 1, 2000."

Section 89. Section 1 of S.L. 2000-64 reads as rewritten:

"Section 1. ~~S.L. 1993-205,~~ Chapter 205 of the 1993 Session Laws, as amended by S.L. 1999-285, is repealed."

Section 90.(a) Section 21 of S.L. 2000-67 reads as rewritten:

"Requested by: Representatives Jeffus, Wainwright, Easterling, Redwine, Edwards, Senators Warren, Lucas, Rand, Albertson, Robinson, Plyler, Perdue, Odom, Kerr

NATIONAL WORLD WAR II MEMORIAL FUNDS

Section 21. Of the funds appropriated in this act to the Department of Administration for the 2000-2001 fiscal year, the sum of three hundred ninety-two thousand dollars ($392,000) shall be used by the Division of Veterans Affairs to fund the voluntary contribution of the State toward the construction of the National World War II Memorial in Washington, D.C."

Section 90.(b) Section 26.12A(a)(2) of S.L. 2000-67 reads as rewritten:

"(2) Who was, on or before April 1, 2000, a permanent officer or permanent employee and who was in service on October 1, 2000, shall receive, payable for the last pay date in October 2000, a compensation bonus of five hundred dollars ($500.00) except that:

a. The compensation bonus for persons subject to Section 26.10 of this act shall be an average of five hundred dollars ($500.00) and shall be allocated in accordance with guidelines adopted by the State Board of

Community ~~Colleges, except for teaching faculty at the community colleges.~~ Colleges.

b. The compensation bonus for persons subject to Section 26.11 of this act shall be an average of five hundred dollars ($500.00) and shall be allocated to individuals according to the rules adopted by the Board of Governors, or the Board of Trustees of the North Carolina School of Science and ~~Mathematics, except for teaching faculty of the UNC System as appropriate.~~ Mathematics.

~~c. The guidelines and rules adopted under sub-subdivisions a. and b. of this subdivision may cover employees of those institutions whose first day of employment for the 2000-2001 academic year came after January 1, 2000.~~"

Section 90.(c) Section 11.6.(b) of S.L. 2000-67 reads as rewritten:

"Section 11.6.(b) Section 11.22(g) of S.L. 1999-237 is repealed."

Section 90.(d) The introductory language of Section 11.8.(a) of S.L. 2000-67 reads as rewritten:

"Section 11.8.(a) ~~G.S. 108A-70.18(8)~~ G.S. 108A-70.18 reads as rewritten:".

Section 90.(d1) The introductory language of Section 11.33(b) of S.L. 2000-67 reads as rewritten:

"Section 11.33.(b) Subsection (m) of Section ~~1532~~ 15.32 of S.L. 1997-443, as amended by subsection (c) of Section 11.58 of S.L. 1999-237, reads as rewritten:".

Section 90.(e) Section 15.11(a) of S.L. 1997-443, as amended by Section 15.3 of S.L. 1999-237 and Section 13.5 of S.L. 2000-67, reads as rewritten:

"(a) The funds placed in a reserve account in the Department of ~~Health and Human Services~~ Environment, Health, and Natural Resources pursuant to Section 26.3(c) of Chapter 507 of the 1995 Session Laws shall not revert until June 30, 2001. Those funds are reallocated as follows:

(1) Five hundred four thousand five hundred sixty dollars ($504,560) to the Stokes County Water and Sewer Authority, Inc., for the Germanton Water Project.

(2) Nine hundred thirty thousand six hundred eighty dollars ($930,680) to the Stokes County Water and Sewer Authority, Inc., for the Walnut Cove/Industrial Site Connection Project.

(3) Eighty thousand dollars ($80,000) to the Stokes County Water and Sewer Authority, Inc., for the Dan River Project.

(4) Thirty thousand dollars ($30,000) to the Department of Environment, Health, and Natural Resources for the Limestone Creek small watershed project in Duplin County.

(5) Three hundred forty thousand six hundred forty dollars ($340,640) to the Department of Environment, Health, and

Natural Resources for the Deep Creek small watershed project in Yadkin County."

Section 90.(f) Section 11.20(b) of S.L. 2000-67 reads as rewritten:

"Section 11.20.(b) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of three hundred twenty-six thousand dollars ($326,000) for the 2000-2001 fiscal year shall be used to provide funds for a grant-in-aid to Residential Services, Inc., for residential services for children with autism."

Section 91. If House Bill 813, 1999 General Assembly, becomes law, the introductory language of Section 1 of the bill reads as rewritten:

"Section 1. ~~Article 35~~ Article 26 of Chapter 14 is amended by adding a new section to read:".

Section 92. If House Bill 979, 1999 General Assembly, becomes law, G.S. 30-3.2(d)(5) as enacted by House Bill 979 reads as rewritten:

"(5) The value of any property which would be included in the taxable estate of the decedent pursuant to sections 2033, 2035, 2036, 2037, 2038, 2039, ~~2040, or 2042~~ or 2040 of the Code."

Section 92.A.(a) If House Bill 1560, 1999 General Assembly, becomes law, the introductory language of subsection (c) of Section 5 of that bill reads as rewritten:

"Section 5.(c) G.S. 105-129.4(a) through (b1), as amended by Section ~~11~~ 8 of this act, read as rewritten:".

Section 92.A.(b) If House Bill 1560, 1999 General Assembly, becomes law, subsection (g) of Section 10 of that bill reads as rewritten:

"Section 10.(g) Modify Credit and Expiration Provisions. -- Section ~~11~~ 8 of this act is effective for taxable years beginning on or after January 1, 2000."

Section 92.A.(c) If House Bill 1560, 1999 General Assembly, becomes law, subsection (h) of Section 10 of that bill reads as rewritten:

"Section 10.(h) Technical Correction. -- Section ~~12~~ 9 of this act becomes effective May 1, 1999, and applies to taxes paid on or after that date. Section 12 is repealed for taxes paid on or after January 1, 2008."

Section 92.1.(a) G.S. 113A-120.2 reads as rewritten:

"§ *113A-120.2. Permits for urban waterfront redevelopment in historically urban ~~areas.~~ areas; certain nonwater dependent uses allowed.*

(a) Notwithstanding any other provision of law, any person may apply to the Commission for a permit for major development granting permission to use the person's land for a nonwater dependent use that is otherwise prohibited by rules, standards, or limitations prescribed by the Commission, or orders issued by the Commission, pursuant to

this Article. The procedure to apply for the permit shall be as provided by G.S. 113A-119.

(b) Notwithstanding G.S. 113A-120(a), the Commission shall grant a permit for nonwater dependent development in public trust areas designated pursuant to G.S. 113A-113(b)(5) if the following criteria are met:

(1) The land is waterfront property located in a municipality.

(2) The land has a history of urban-level development as evidenced by any of the following:

a. The land is a historic place that is listed, or has been approved for listing by the North Carolina Historical Commission, in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966.

b. The land is a historical, archaeological, and other site owned, managed, or assisted by the State of North Carolina pursuant to Chapter 121 of the General Statutes.

c. The land has a central business district zoning classification, or any other classification that may be designated as acceptable by the Commission.

(3) The proposed development is sponsored in part or in whole by the local jurisdiction in which the development would be located for the purpose of significantly increasing public access consistent with the Coastal Area Management guidelines.

(4) The municipality in which the activity would occur has determined that the development will not have a significant adverse impact on the environment.

(5) The development as requested is consistent with a local urban waterfront development plan, local development regulations, public access plans, and other applicable local authority.

(c) Except as otherwise provided by this section, all other provisions of this Article apply to a permit applied for under this section, including the provisions of G.S. 113A-120(b1) and (b2).

(d) A structure constructed over coastal wetlands, estuarine waters, or public trust areas prior to 1 July 2000 may be used to serve to the public food and drink that is prepared at a food services establishment that began operation on or before 1 July 2000."

Section 92.1.(b) If House Bill 1218, 1999 General Assembly, becomes law, Section 2.2 of House Bill 1218, 1999 General Assembly, reads as rewritten:

"Section 2.2. ~~The~~ Notwithstanding G.S. 150B-21.3(a) and 26 NCAC 2C.0102(11), the Coastal Resources Commission shall adopt a temporary rule ~~providing for and governing urban~~ to establish use standards for waterfront ~~redevelopment in historically~~ development in urban ~~areas.~~ areas to replace G.S. 113A-120.2 when it expires. The temporary rule shall become effective 1 April 2001 and shall remain

in effect until a permanent rule that replaces the temporary rule becomes effective."

Section 92.2.(a) G.S. 90-89(4) reads as rewritten:

"(4) Any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, unless specifically excepted or unless listed in another schedule:

a. Mecloqualone.

b. Methaqualone.

c. Gamma hydroxybutyric acid; Some other names: GHB, gamma-hydroxybutyrate, 4-hydroxybutyrate, 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate."

Section 92.2.(b) G.S. 90-91 is amended by adding a new subsection to read:

"(m) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act."

Section 92.2.(c) G.S. 90-92(a) reads as rewritten:

"(a) This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this schedule, the Commission shall find: a low potential for abuse relative to the substances listed in Schedule III of this Article; currently accepted medical use in the United States; and limited physical or pyschological dependence relative to the substances listed in Schedule III of this Article. The following controlled substances are included in this schedule:

(1) Depressants. -- Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

a. Alprazolam.

b. Barbital.

c. Bromazepam.

d. Camazepam.

e. Chloral betaine.

f. Chloral hydrate.

g. Chlordiazepoxide.

h. Clobazam.

i. Clonazepam.

j. Clorazepate.

k. Clotiazepam.

l. Cloxazolam.
m. Delorazepam.
n. Diazepam.
o. Estazolam.
p. Ethchlorvynol.
q. Ethinamate.
r. Ethyl loflazepate.
s. Fludiazepam.
t. Flunitrazepam.
u. Flurazepam.
~~v. Gamma Hydroxybutyric Acid.~~
w. Halazepam.
x. Haloxazolam.
y. Ketazolam.
z. Loprazolam.
aa. Lorazepam.
bb. Lormetazepam.
cc. Mebutamate.
dd. Medazepam.
ee. Meprobamate.
ff. Methohexital.
gg. Methylphenobarbital (mephobarbital).
hh. Midazolam.
ii. Nimetazepam.
jj. Nitrazepam.
kk. Nordiazepam.
ll. Oxazepam.
mm. Oxazolam.
nn. Paraldehyde.
oo. Petrichloral.
pp. Phenobarbital.
qq. Pinazepam.
rr. Prazepam.
ss. Quazepam.
tt. Temazepam.
uu. Tetrazepam.
vv. Triazolam.
ww. Zolpidem.

(2) Any material, compound, mixture, or preparation which contains any of the following substances, including its salts, or isomers and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:
a. Fenfluramine.
b. Pentazocine.

(3) Stimulants. -- Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical,

position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

a. Diethylpropion.
b. Mazindol.
c. Pemoline (including organometallic complexes and chelates thereof).
d. Phentermine.
e. Cathine.
f. Fencamfamin.
g. Fenproporex.
h. Mefenorex.
i. Sibutramine.

(4) Other Substances. -- Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

a. Dextropropoxyphene (Alpha-(plus)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).
b. Pipradrol.
c. SPA ((-)-1-dimethylamino-1, 2-diphenylethane).
d. Butorphanol.

(5) Narcotic Drugs. -- Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

a. Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
b. Buprenorphine."

Section 92.2.(d) G.S. 90-95(d2) reads as rewritten:

"(d2) The immediate precursor chemicals to which subsection (d1) of this section applies are those immediate precursor chemicals designated by the Commission pursuant to its authority under G.S. 90-88, and the following (until otherwise specified by the Commission):

(1) Anhydrous ammonia.
(1a) Anthranilic acid.
(2) Benzyl cyanide.
(3) Chloroephedrine.
(4) Chloropseudoephedrine.
(5) D-lysergic acid.
(6) Ephedrine.
(7) Ergonovine maleate.
(8) Ergotamine tartrate.
(9) Ethyl Malonate.
(10) Ethylamine.
(10a) Iodine.
(11) Isosafrole.
(11a) Lithium.

(12) Malonic acid.
(13) Methylamine.
(14) N-acetylanthranilic acid.
(15) N-ethylephedrine.
(16) N-ethylepseudoephedrine.
(17) N-methylephedrine.
(18) N-methylpseudoephedrine.
(19) Norpseudoephedrine.
(20) Phenyl-2-propane.
(21) Phenylacetic acid.
(22) Phenylpropanolamine.
(23) Piperidine.
(24) Piperonal.
(25) Propionic anhydride.
(26) Pseudoephedrine.
(27) Pyrrolidine.
(27a) Red phosphorous.
(28) Safrole.
(28a) Sodium.
(29) Thionylchloride.
(30) Gamma-butyrolactone."

Section 92.2.(e) This section becomes effective December 1, 2000, and applies to offenses committed on or after that date. Prosecutions for offenses occurring before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable for this act remain applicable to those prosecutions.

Section 93. G.S. 90-624 is amended by adding a new subdivision to read:

"(8) A person employed by or contracting with a not-for-profit community service organization to perform massage and bodywork therapy on persons who are members of the not-for-profit community service organization and are of the same gender as the person giving the massage or bodywork therapy."

Section 93.1.(a) Effective July 1, 2000, the phrase "Office of State Budget and Management" is deleted and replaced by the phrase "Office of State Budget, Planning, and Management" wherever it occurs in each of the following General Statutes:

7A-113.	Bookkeeping and accounting systems equipment.
18B-1009.	In-stand sales.
20-7.	Issuance and renewal of drivers licenses.
58-6-25.	Insurance regulatory charge.
58-85A-1.	Creation of Fund; allocation to local fire districts and political subdivisions of the State.
96-4.	Administration.
96-35.	Reports on common follow-up system activities.
97-80.	Rules and regulations; subpoena of witnesses; examination of books and records; depositions; costs.

105-130.5.	Adjustments to federal taxable income in determining State net income.
105-134.6.	Adjustments to taxable income.
105-262.	Rules.
108A-27.8.	Standard Program Counties -- Duties of Department.
115C-457.1.	Creation of Fund; administration.
115C-457.2.	Remittance of moneys to the Fund.
115C-457.3.	Transfer of funds to the State School Technology Fund.
115C-546.1.	Creation of Fund; administration.
115D-31.	State financial support of institutions.
116-220.	Establishment and administration of self-insurance trust funds; rules and regulations; defense of actions against covered persons; application of § 143-300.6.
120-30.45.	Fiscal note on legislation.
120-30.49.	Compiling federal mandates; annual report.
120-36.8.	Certification of legislation required by federal law.
120-131.1.	Requests from legislative employees for assistance in the preparation of fiscal notes.
120-166.	Additional criteria; nearness to another municipality.
122A-16.	Oversight by committees of General Assembly; annual reports.
122C-112.	Powers and duties of the Secretary.
122C-185.	Application of funds belonging to State facilities.
131D-4.2.	Adult care homes; family care homes; annual cost reports; exemptions; enforcement.
131E-13.	Lease or sale of hospital facilities to or from for-profit or nonprofit corporations or other business entities by municipalities and hospital authorities.
135-39.3.	Oversight team.
138-6.	Travel allowances of State officers and employees.
138-8.	Moving expenses of State employees.
143-1.	Scope and definitions.
143-2.	Purposes.
143-4.	(For applicability see note) Advisory Budget Commission.
143-6.	Information from departments and agencies asking State aid.
143-6.1.	Report on use of State funds by non-State entities.
143-10.1A.	Same -- Continuation and expansion costs.
143-10.2.	Limit on number of State employees.
143-10.3.	Strategic planning process.
143-10.4.	Departmental operations plans.
143-10.5.	Development of performance measures for major programs.
143-10.7.	Review of department forms and reports.
143-12.1.	Vending facilities.

143-15.4.	General Fund operating budget size limited.
143-19.	Help for Director.
143-20.1.	Annual financial statements.
143-27.	Appropriations to educational, charitable and correctional institutions are in addition to receipts by them.
143-28.1.	Highway Fund appropriation.
143-31.1.	Study and review of plans and specifications for building, improvement, etc., projects.
143-34.2.	Information as to requests for nonstate funds for projects imposing obligation on State; statement of participation in contracts, etc., for nonstate funds; limiting clause required in certain contracts or grants.
143-34.41.	Legislative intent; purpose.
143-34.43.	Capital improvement needs criteria.
143-34.44.	Agency capital improvement needs estimates.
143-138.	North Carolina State Building Code.
143-215.94P.	Groundwater Protection Loan Fund.
143-345.24.	Incentive Bonus Review Committee.
143B-133.1.	Powers of Commission.
143B-336.1.	Special Zoo Fund.
143B-426.39.	Powers and duties of the State Controller.
143B-472.41.	Information Resource Management Commission.
143B-472.64.	Financial reporting and accountability for information technology investments and expenditures.
146-30.	Application of net proceeds.
147-86.22.	Statewide accounts receivable program.
150B-21.	Agency must designate rule-making coordinator; duties of coordinator.
150B-21.4.	Fiscal notes on rules.
150B-21.9.	Standards and timetable for review by Commission.
150B-21.28.	Role of the Office of State Budget and Management.
153A-230.1.	Definitions.
153A-230.2.	Creation of Satellite Jail/Work Release Unit Fund.
153A-230.5.	Satellite jails/work release units built with non-State funds.
159I-25.	Disbursement.
159I-28.	Rules.
159I-29.	Annual reports to Joint Legislative Commission on Governmental Operations.
160A-486.	Estimates of population.

Section 93.1.(b) Effective July 1, 2000, the phrase "Office of State Planning" is deleted and replaced by the phrase "Office of State Budget, Planning, and Management" wherever it occurs in each of the following General Statutes:

7A-101.	Compensation.
47-30.	Plats and subdivisions; mapping requirements.

62A-25. Use of funds.

Section 93.1.(c) Effective July 1, 2000, the phrase "State Budget Office" is deleted and replaced by the phrase "Office of State Budget, Planning, and Management" wherever it occurs in each of the following General Statutes:

143B-472.41. Information Resource Management Commission.

163-132.5. Cooperation of State and local agencies.

Section 93.1.(d) G.S. 96-31 reads as rewritten:

"§ *96-31. Definitions.*

As used in this Article, unless the context clearly requires otherwise, the term:

(1) "CFS" means the common follow-up information management system developed by the Employment Security Commission of North Carolina as authorized under this Article.

(2) "ESC" means the Employment Security Commission of North Carolina.

~~(3) "OSBM" means the Office of State Budget and Management.~~

(4) "State job training, education, and placement program" or "State-funded program" means a program operated by a State or local government agency or entity and supported in whole or in part by State or federal funds, that provides job training and education or job placement services to program participants. The term does not include on-the-job training provided to current employees of the agency or entity for the purposes of professional development."

Section 93.1.(e) G.S. 96-32 reads as rewritten:

"§ *96-32. Common follow-up information management system created.*

(a) The Employment Security Commission of North Carolina shall develop, implement, and maintain a common follow-up information management system for tracking the employment status of current and former participants in State job training, education, and placement programs. The system shall provide for the automated collection, organization, dissemination, and analysis of data obtained from State-funded programs that provide job training and education and job placement services to program participants. In developing the system, the ESC shall ensure that data and information collected from State agencies is confidential, not open for general public inspection, and maintained and disseminated in a manner that protects the identity of individual persons from general public disclosure.

(b) The ESC in consultation with ~~OSBM~~ the Office of State Budget, Planning, and Management shall adopt procedures and guidelines for the development and implementation of the CFS authorized under this section.

(c) Based on data collected under the CFS, the ~~Office of State Budget and Management~~ Office of State Budget, Planning, and Management shall evaluate the effectiveness of job training, education,

and placement programs to determine if specific program goals and objectives are attained, to determine placement and completion rates for each program, and to make recommendations regarding the continuation of State funding for programs evaluated. The ESC shall provide to ~~OSBM~~ the Office of State Budget, Planning, and Management data collected under the CFS in a manner and with the frequency necessary for the ~~Office of State Budget and Management~~ Office of State Budget, Planning, and Management to conduct the evaluation required under this subsection. The ESC shall consult with ~~OSBM~~ the Office of State Budget, Planning, and Management to determine the most efficient and effective method for providing to ~~OSBM~~ the Office of State Budget, Planning, and Management data collected under the CFS. The ~~OSBM~~ Office of State Budget, Planning, and Management shall maintain the same levels of confidentiality with respect to CFS data received from the ESC as is required of the ESC under this Article. ~~OSBM shall coordinate with the Office of State Planning to determine what data will be collected to support the State planning and budgetary process.~~"

Section 93.1.(f) G.S. 143-3.5(a) reads as rewritten:

"(a) It shall be the duty of the Director, through the ~~Office of State Budget and Management and the Office of State Planning~~ Office of State Budget, Planning, and Management to coordinate the efforts of governmental agencies in the collection, development, dissemination and analysis of official economic, demographic and social statistics pertinent to State budgeting. The Director shall:

(1) Prepare and release the official demographic and economic estimates and projections for the State;
(2) Conduct special economic and demographic analyses and studies to support statewide budgeting;
(3) Develop and coordinate cooperative arrangements with federal, State and local governmental agencies to facilitate the exchange of data to support State budgeting;
(4) Compile, maintain, and disseminate information about State programs which involve the distribution of State aid funds to local governments including those variables used in their allocation;
(5) Develop and maintain in cooperation with other State and local governmental agencies, an information system providing comparative data on resources and expenditures of local governments; and
(6) Report major trends that influence revenues and expenditures in the State budget in the current fiscal year and that may influence revenues and expenditures over the next five fiscal years.

Every fiscal analysis prepared by the Director or the ~~Office of State Budget and Management~~ Office of State Budget, Planning, and Management addressing the State budget outlook shall encompass the upcoming five-year period. Every fiscal analysis prepared by the

Director or the ~~Office of State Budget and Management~~ Office of State Budget, Planning, and Management addressing the impact of proposed legislation on the State budget shall estimate the impact for the first five fiscal years the legislation would be in effect. To minimize duplication of effort in collecting or developing new statistical series pertinent to State planning and budgeting, including contractual arrangements, State agencies must submit to the Director proposed procedures and funding requirements."

Section 93.1.(g) G.S. 143B-372.3(b) reads as rewritten:

"(b) The ~~Office of State Budget and Management and the Office of State Planning~~ Office of State Budget, Planning, and Management shall also provide support, information, reports, and other assistance to the North Carolina Progress Board as requested."

Section 93.1.(h) G.S. 143B-472.52(b) reads as rewritten:

"(b) The Office shall coordinate with ~~the Office of State Budget and Management and the Office of State Planning~~ the Office of State Budget, Planning, and Management to integrate agency strategic and business planning, technology planning and budgeting, and project expenditure processes into the Office's information technology portfolio-based management. The Office shall provide recommendations for agency annual budget requests for information technology investments, projects, and initiatives to the ~~Office of State Budget and Management.~~ Office of State Budget, Planning, and Management."

Section 93.1.(i) The Revisor of Statutes shall change the term "Office of State Budget and Management" to "Office of State Budget, Planning, and Management" wherever it occurs in the General Statutes, except in G.S. 143-3.1.

Section 93.1.(j) The Revisor of Statutes shall change the term "OSBM" to "Office of State Budget, Planning, and Management" wherever it occurs in the General Statutes.

Section 93.1.(k) **The** Revisor of Statutes shall change the term "Office of State Planning" to "Office of State Budget, Planning, and Management" wherever it occurs in the General Statutes.

Section 93.1.(l) The Revisor of Statutes shall change the term "State Budget Office" to "Office of State Budget, Planning, and Management" wherever it occurs in the General Statutes, except in G.S. 143-31.5.

Section 93.1.(m) This section becomes effective July 1, 2000.

Section 94. If House Bill 968, 1999 General Assembly, becomes law, G.S. 150B-52, as amended by House Bill 968, 1999 General Assembly, reads as rewritten:

"*§ 150B-52. Appeal; stay of court's decision.*

A party to a review proceeding in a superior court may appeal to the appellate division from the final judgment of the superior court as provided in G.S. 7A-27. The scope of review to be applied by the appellate court under this section is the same as it is for other civil cases. In cases reviewed under ~~G.S. 150B-51(a1)(3),~~ G.S. 150B-

51(c), the court's findings of fact shall be upheld if supported by substantial evidence. Pending the outcome of an appeal, an appealing party may apply to the court that issued the judgment under appeal for a stay of that judgment or a stay of the administrative decision that is the subject of the appeal, as appropriate."

Section 94.1. If House Bill 968, 1999 General Assembly, becomes law, then G.S. 150B-51(a), as amended by House Bill 968, reads as rewritten:

"§ *150B-51. Scope and standard of review.*

(a) In reviewing a final decision in a contested case in which an administrative law judge made a recommended decision and the State Personnel Commission made an advisory decision in accordance with G.S. 126-37(b1), the court shall make two initial determinations. First, the court shall determine whether the ~~agency~~ applicable appointing authority heard new evidence after receiving the recommended decision. If the court determines that the ~~agency~~ applicable appointing authority heard new evidence, the court shall reverse the decision or remand the case to the ~~agency~~ applicable appointing authority to enter a decision in accordance with the evidence in the official record. Second, if the ~~agency~~ applicable appointing authority did not adopt the recommended decision, the court shall determine whether the ~~agency's~~ applicable appointing authority's decision states the specific reasons why the ~~agency~~ applicable appointing authority did not adopt the recommended decision. If the court determines that the ~~agency~~ applicable appointing authority did not state specific reasons why it did not adopt a recommended decision, the court shall reverse the decision or remand the case to the ~~agency~~ applicable appointing authority to enter the specific reasons."

Section 95.(a) G.S. 143B-472.70, as enacted by Section 7.8 of S.L. 2000-67, is recodified as G.S. 143-48.3.

Section 95.(b) Part 17 of Article 10 of Chapter 143B of the General Statutes, as enacted by Section 7.8 of S.L. 2000-67, is repealed.

Section 96. Section 4 of S.L. 2000-24 reads as rewritten:

"Section 4. No portion of the Riverbend Steam Station Property as described in Section 3 of this act and no portion of the Mountain Island Power House and Dam described in Section 3 of this act shall be subject to involuntary ~~annexation, or designation as an urban tax district or otherwise subjected to the power of a municipal taxing authority~~ annexation by the City of Mount Holly or any other town or municipality or consolidated government, if provided under the terms of said agreement as referred to in Section 1 of this act. The City of Mount Holly shall not impose any tax on the said portion of the Riverbend Steam Station as described in Section 3 of this act or on the said portion of the Mountain Island Power House and Dam described in Section 3 of this act until the effective date of the involuntary annexation, if provided under the terms of said agreement as referred to in Section 1 of this act."

Section 97. If Senate Bill 1305, 1999 General Assembly, and Senate Bill 1266, 1999 General Assembly, both become law, then when Part 1 of Senate Bill 1305, 1999 General Assembly, becomes effective, G.S. 66-308.15(d), as enacted by Senate Bill 1266, 1999 General Assembly, reads as rewritten:

"(d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in G.S. 25-1-201(20), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under Chapter 25 of the General Statutes, including, if the applicable statutory requirements under G.S. 25-3-302(a), 25-7-501, or ~~25-9-308~~ 25-9-330 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection."

Section 98. If Senate Bill 897, 1999 General Assembly, becomes law, then Article 37, as enacted by Senate Bill 897, 1999 General Assembly, is recodified as Article 39, and G.S. 90-646 through G.S. 90-649, as enacted by Senate Bill 897, 1999 General Assembly, are recodified as G.S. 90-671 through G.S. 90-674, respectively. The Revisor of Statutes shall make conforming corrections to the internal citations of statutes affected by this section.

Section 99.(a) If Senate Bill 1215, 1999 General Assembly, and House Bill 1804, 1999 General Assembly, both become law, G.S. 143B-253(2), as amended by Senate Bill 1215, 1999 General Assembly, reads as rewritten:

"(2) The Social Services Commission shall have the power and duty to establish standards and adopt rules and regulations:

a. For the programs of public assistance established by federal legislation and by Article 2 of Chapter 108A of the General Statutes of the State of North Carolina with the exception of the program of medical assistance established by G.S. 108A-25(b);

b. To achieve maximum cooperation with other agencies of the State and with agencies of other states and of the federal government in rendering services to strengthen and maintain family life and to help recipients of public assistance obtain self-support and self-care;

c. For the placement and supervision of dependent juveniles and of delinquent juveniles who are placed in the custody of the ~~Office of Juvenile Justice,~~ Department of Juvenile Justice and Delinquency Prevention, and payment of necessary costs of foster home care for needy and homeless children as provided by G.S. 108A-48;

d. For the payment of State funds to private child-placing agencies as defined in G.S. 131D-10.2(4) and residential child care facilities as defined in G.S. 131D-

10.2(13) for care and services provided to children who are in the custody or placement responsibility of a county department of social services; and

e. For client assessment and independent case management pertaining to the functions of county departments of social services for public assistance programs authorized under paragraph a. of this subdivision."

Section 99.(b) If Senate Bill 1215, 1999 General Assembly, and House Bill 1804, 1999 General Assembly, both become law, Section 4(dd) of House Bill 1804, 1999 General Assembly, is repealed.

Section 100.(a) G.S. 20-309(a) reads as rewritten:

"(a) No motor vehicle shall be registered in this State unless the owner at the time of registration has financial responsibility for the operation of such motor vehicle, as provided in this Article. The owner of each motor vehicle registered in this State shall maintain financial responsibility continuously throughout the period of registration.

(a1) An owner of a commercial motor vehicle, as defined in G.S. 20-4.01(3d), shall have financial responsibility for the operation of the motor vehicle ~~as required by this section. The financial responsibility for a commercial motor vehicle shall be~~ in an amount equal to that required for for-hire carriers transporting nonhazardous property in interstate or foreign commerce in ~~49 C.F.R. §§ 387.3, 387.5, 387.7, and 387.11 for for-hire or private motor vehicles transporting property in interstate or intrastate commerce.~~ 49 C.F.R. § 387.9."

Section 100.(b) This section becomes effective September 1, 2000, and applies to new or renewal policies written to become effective on or after that date.

Section 101.(a) G.S. 55-5-01(a)(2) reads as rewritten:

"(2) A registered agent, who shall be (i) an individual who resides in this State and whose business office is identical with the registered office; (ii) a domestic ~~corporation or~~ corporation, nonprofit ~~domestic corporation~~ corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign ~~corporation or~~ corporation, nonprofit ~~foreign~~ ~~corporation~~ corporation, or limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office."

Section 101.(b) G.S. 55-10-03(d) reads as rewritten:

"(d) The corporation shall notify each ~~shareholder~~ shareholder, whether or not the shareholder is entitled to ~~vote~~ vote, of the proposed shareholders' meeting in accordance with G.S. 55-7-05. The notice of meeting must state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and the notice must contain or be accompanied by a copy or summary of the amendment."

Section 101.(c) G.S. 55-15-07(a)(2) reads as rewritten:

"(2) A registered agent, who shall be (i) an individual who resides in this State and whose business office is identical with the registered office; (ii) a domestic ~~corporation~~ corporation, ~~or~~ nonprofit ~~domestic corporation~~ corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign ~~corporation~~ corporation, ~~or foreign~~ nonprofit ~~corporation~~ corporation, or limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office."

Section 101.(d) G.S. 55A-5-01(a)(2) reads as rewritten:

"(2) A registered agent, who shall be:

a. An individual who resides in this State and whose office is identical with the registered office;

b. A domestic business corporation, ~~or~~ nonprofit ~~corporation~~ corporation, or limited liability company whose office is identical with the registered office; or

c. A foreign business corporation, ~~or~~ nonprofit ~~corporation~~ corporation, or limited liability company authorized to transact business or conduct affairs in this State whose office is identical with the registered office."

Section 101.(e) G.S. 55A-15-07(a)(2) reads as rewritten:

"(2) A registered ~~agent;~~ agent, who shall be: (i) an individual who resides in this State and whose office is identical with the registered office; (ii) a domestic business corporation, ~~or~~ nonprofit ~~corporation~~ corporation, or limited liability company whose office is identical with the registered office; or (iii) a foreign business corporation, ~~or~~ nonprofit ~~corporation~~ corporation, or limited liability company authorized to transact business or conduct affairs in this State whose office is identical with the registered office."

Section 101.(f) G.S. 55B-9(b) reads as rewritten:

"(b) Liability. -- A shareholder, a director, or an officer of a professional corporation is not individually liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for the debts, obligations, and liabilities of, or chargeable to, the professional corporation that arise from errors, omissions, negligence, malpractice, incompetence, or malfeasance committed by another shareholder, director, or officer or by a representative of the professional corporation; provided, however, nothing in this Chapter shall affect the liability of a shareholder, director, or officer of a professional corporation for his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the rendering of professional services. ~~This subsection does not affect the joint and several liability of a shareholder, a director, or an officer of a professional corporation for any taxes owed by the professional~~

~~corporation under Chapter 105 of the General Statutes or Article 3 of Chapter 119 of the General Statutes.~~"

Section 101.(g) G.S. 57C-2-40(a) reads as rewritten:

"(a) Each limited liability company must continuously maintain in this State:

(1) A registered office that may be the same as any of its places of business; and

(2) A registered agent, who shall be (i) an individual who resides in this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office."

Section 101.(h) G.S. 57C-7-07(a) reads as rewritten:

"(a) Each foreign limited liability company authorized to transact business in this State must continuously maintain in this State:

(1) A registered office that may be the same as any of its places of business; and

(2) A registered agent, who shall be (i) an individual who resides in this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office."

Section 101.(i) G.S. 57C-7-12(a) reads as rewritten:

"(a) Whenever a foreign limited liability company authorized to transact business in this State ceases its separate existence as a result of a statutory ~~merger, consolidation, or conversion~~ merger or consolidation permitted by the laws of the state or country under which it was organized, or converts into another type of entity as permitted by those laws, the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign limited liability company by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of limited liability company records in the state or country under the laws of which the foreign limited liability company was organized. If the surviving or resulting entity is not authorized to transact business in this State, the articles or certificate must be accompanied by an application which must set forth:

(1) The name of the foreign limited liability company authorized to transact business in this State, the type of entity and name

of the surviving or resulting entity, and a statement that the surviving or resulting entity is not authorized to transact business in this State;

(2) A statement that the surviving or resulting entity consents that service of process based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited liability company was authorized to transact business in this State, may thereafter be made by service thereof on the Secretary of State;

(3) A mailing address to which the Secretary of State may mail a copy of any process served on him under subdivision (a)(2) of this section; and

(4) A commitment to ~~notify~~ file with the Secretary of State ~~in the future~~ a statement of any change in its subsequent mailing address."

Section 101.(j) G.S. 59-31 reads as rewritten:

"*§ 59-31. Name of Article.*

~~This Article~~ Articles 2 through 4A, inclusive, of this Chapter shall be known and may be cited as the North Carolina Uniform Partnership Act."

Section 101.(k) G.S. 59-32 is amended by adding a new subdivision to read:

"*§ 59-32. Definition of terms.*

As used in this Chapter, except as otherwise defined in Article 5 of this Chapter for purposes of that Article, unless the context otherwise requires:

(01) 'Act' means the North Carolina Uniform Partnership Act and refers to all provisions therein."

Section 101.(l) G.S. 59-34 reads as rewritten:

"*§ 59-34. Rules of construction.*

(a) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this ~~Article.~~ Act.

(b) The law of estoppel shall apply under this ~~Article.~~ Act.

(c) The law of agency shall apply under this ~~Article.~~ Act.

(d) This Article shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.

(e) This Article and the other provisions of this Act shall not be construed so as to impair the obligations of any contract existing when the Article or any other provision of this Act, as applicable, goes into effect, nor to affect any action or proceedings begun or right accrued before this Article or any other provision of this Act, as applicable, takes effect."

Section 101.(m) G.S. 59-35 reads as rewritten:

"*§ 59-35. Rules for cases not provided for in this ~~Article.~~ Act.*

In any case not provided for in this ~~Article~~ Act, the rules of law and equity, including the law merchant, shall govern."

Section 101.(n) The Revisor of Statutes shall change the term "Article" to "Act" wherever it occurs in G.S. 59-33, 59-41, 59-55, and 59-58.

Section 101.(o) G.S. 59-77 reads as rewritten:

"*§ 59-77. When personal representative may take inventory; receiver.*

If the surviving partner should neglect or refuse to have such inventory made, the personal representative of the deceased partner may have the same made in accordance with the provisions of G.S. 59-76. Should any surviving partner fail to take such an inventory or refuse to allow the personal representative of the deceased partner's estate to do so, such personal representative of the deceased partner's estate may forthwith apply to a court of competent jurisdiction for the appointment of a receiver for such partnership, who shall thereupon proceed to wind up the same and dispose of the assets thereof in accordance with law."

Section 101.(p) G.S. 59-84.2 is amended by adding a new subsection to read:

"(i) The registered agent of a registered limited liability partnership for service of process must be (i) an individual who is a resident of this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office. The sole duty of the registered agent to the registered limited liability partnership is to forward to the registered limited liability partnership at its last known address any notice, process, or demand that is served on the registered agent."

Section 101.(q) G.S. 59-105(a) reads as rewritten:

"*§ 59-105. Registered office and registered agent.*

(a) Each limited partnership shall have and continuously maintain in this State:

(1) A registered ~~office, which~~ office that may ~~be, but need not be,~~ be the same as any of its ~~place~~ places of business;

(2) A registered agent, ~~which agent may~~ who shall be ~~either~~ (i) an individual resident of this State whose business office is identical with such registered ~~office, or,~~ office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with such registered office; ~~or~~ or (iii) a foreign ~~corporation~~ corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State, ~~having a~~ whose business office is identical with such registered office.

The sole duty of the registered agent to the limited partnership is to forward to the limited partnership at its last known address any notice, process, or demand that is served on the registered agent."

Section 101.(r) G.S. 59-907(b) reads as rewritten:

"(b) The failure of a foreign limited partnership to obtain a certificate of authority to transact business in this State shall not impair the validity of any contract or act of the foreign limited partnership and shall not prevent the foreign limited partnership from defending any action or proceeding in any court of this State."

Section 101.(s) G.S. 59-1053(5) reads as rewritten:

"(5) The interests in the converting business entity that are to be converted into interests, obligations, or securities of the resulting domestic limited partnership or into the right to receive cash or other property are thereupon so converted, and the former holders of interests in the converting business entity are entitled only to the rights provided in the plan of conversion."

Section 101.(t) Section 7 of S.L. 1999-189 reads as rewritten:

"Section 7. This act is effective when it becomes law, applies to limited liability companies in existence or formed on or after ~~January 1, 1999,~~ the date the act becomes law, and applies to actions commenced on or after October 1, 1999."

Section 102. G.S. 136-18(15) reads as rewritten:

"(15) The Department of Transportation shall have authority to provide facilities for the use of waterborne traffic and recreational uses by establishing connections between the highway system and the navigable and nonnavigable waters of the State by means of connecting roads and piers. Such facilities for recreational purposes shall be funded from funds available for safety or enhancement purposes."

Section 103. If House Bill 1508, 1999 General Assembly, becomes law, then Section 6 of House Bill 1508, 1999 General Assembly, is rewritten to read:

"Section 6. Section 5 of this act applies to permits issued or renewed on or after August 1, 2000. The remainder of this act becomes effective August 1, 2000."

Section 103A. The prefatory language of Section 15 of Ratified House Bill 1499, 1999 Regular Session, reads as rewritten:

"Section 15. G.S. ~~16.5(b)~~ 20-16.5(b) reads as rewritten:".

Section 104. Section 10(e) of House Bill 1854, 1999 General Assembly, reads as rewritten:

"Section 10.(e) Jail Fees for Local Governments. -- Section 5 of this act becomes effective ~~July~~ October 1, 2000, and applies to sentences or portions of sentences being served on or after that date."

Section 105. Except as otherwise specified, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 5:10 p.m. on the 21st day of July, 2000.

H.B. 1855 **SESSION LAW 2000-141**

AN ACT PERTAINING TO PRESCRIPTION DRUG, RETIREE PREMIUMS, AND CHRONIC CONDITION CLAIM COSTS UNDER THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-40.5(g) reads as rewritten:

"(g) Prescription Drugs. -- The Plan's allowable charges for prescription legend drugs to be used outside of a hospital or skilled nursing facility are to be determined by the Plan's Executive Administrator and Board of Trustees. ~~ninety percent (90%) of the average wholesale price. A dispensing fee of six dollars ($6.00) per prescription shall also be an allowable charge for qualified providers.~~ The Plan will pay allowable charges for each outpatient prescription drug less a copayment to be paid by each covered individual equal to the following amounts: pharmacy charges up to ten dollars ($10.00) for each generic prescription, fifteen dollars ($15.00) for each branded prescription, and twenty dollars ($20.00) for each branded prescription with a generic equivalent ~~drug.~~ drug, and twenty-five dollars ($25.00) for each branded or generic prescription not on a formulary used by the Plan. Allowable charges shall not be greater than a pharmacy's usual and customary charge to the general public for a particular prescription. Prescriptions shall be for no more than a 34-day supply for the purposes of the copayments paid by each covered individual. By accepting the copayments and any remaining allowable charges provided by this subsection, pharmacies shall not balance bill an individual covered by the Plan. A prescription legend drug is defined as an article the label of which, under the Federal Food, Drug, and Cosmetic Act, is required to bear the legend: 'Caution: Federal Law Prohibits Dispensing Without Prescription.' Such articles may not be sold to or purchased by the public without a prescription order. Benefits are provided for insulin even though a prescription is not required. The Plan may use a pharmacy benefit manager to help manage the Plan's outpatient prescription drug coverage. In managing the Plan's outpatient prescription drug benefits, the Plan and its pharmacy benefit manager shall not provide coverage for erectile dysfunction, growth hormone, antiwrinkle, weight loss, and hair growth drugs unless such coverage is medically necessary to the health of the member."

Section 2. G.S. 135-39.4A(f) reads as rewritten:

"(f) The Executive Administrator may employ such clerical and professional staff, and such other assistance as may be necessary to assist the Executive Administrator and the Board of Trustees in carrying out their duties and responsibilities under this Article. The Executive Administrator may also negotiate, renegotiate and execute contracts with third parties in the performance of his duties and responsibilities under this Article; provided any contract negotiations,

renegotiations and execution with a Claims Processor or with an optional prepaid hospital and medical benefit plan or with a preferred provider of institutional or professional hospital and medical care or with a pharmacy benefit manager shall be done only after consultation with the Committee on Employee Hospital and Medical Benefits."

Section 3. G.S. 135-39.5 is amended by adding subdivisions to read:

"(24) Implementing and administering a case management and disease management program.

(25) Implementing and administering a pharmacy benefit management program through a third-party contract awarded after receiving competitive quotes."

Section 4. G.S. 135-40.6A(b) is amended by adding a subdivision to read:

"(10) Outpatient prescription drugs requiring prospective review under the Plan's pharmacy benefit management program."

Section 5. G.S. 135-40.7 is amended by adding a subdivision to read:

"(23) Charges disallowed by the Plan's pharmacy benefits manager."

Section 6.(a) G.S. 135-40.2(a) reads as rewritten:

"(a) The following persons are eligible for coverage under the Plan, on a noncontributory basis, subject to the provisions of G.S. 135-40.3:

. . .

(2) Retired teachers, State employees, members of the General Assembly, and retired State law enforcement officers who retired under the Law Enforcement Officers' Retirement System prior to January 1, 1985. ~~For employees first hired on and after October 1, 1995, and members of the General Assembly first taking office on and after October 1, 1995, future coverage as retired employees and retired members of the General Assembly is subject to a requirement that the future retiree have 20 or more years of retirement service credit in order to be covered by the provisions of this subdivision.~~"

Section 6.(b) G.S. 135-40.2(a1) and G.S. 135-40.2(b)(11) are repealed.

Section 7. The Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan shall, for fiscal year 2000-2001, set allowable charges for outpatient prescription drugs at ninety percent (90%) of average wholesale price for branded prescriptions, maximum allowable charge limits for generic prescriptions covered by rules and regulations of the Health Care Financing Administration, and eighty percent (80%) of average wholesale price for generic prescriptions not covered by rules and regulations of the Health Care Financing Administration, plus a dispensing fee of four dollars ($4.00) per prescription. The Executive

Administrator and Board of Trustees shall insure that any formulary used by a pharmacy benefit manager is an open formulary.

Section 8. Section 7 of this act becomes effective August 1, 2000. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 9:07 a.m. on the 2nd day of August, 2000.

S.B. 1272 **SESSION LAW 2000-142**

AN ACT TO CHANGE THE DATE BY WHICH THE HOLDER OF A STANDARD COMMERCIAL FISHING LICENSE WILL BE ALLOWED TO TAKE CRABS; TO ALLOW THE HOLDER OF AN INTERIM CRAB LICENSE TO OBTAIN A STANDARD COMMERCIAL FISHING LICENSE; AND TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO ADOPT TEMPORARY RULES TO ESTABLISH CRITERIA FOR EXCEPTIONS TO THE REGULATORY REQUIREMENT, EFFECTIVE 1 AUGUST 2000, OF A THIRTY-FOOT DEVELOPMENT SETBACK ALONG PUBLIC TRUST AND ESTUARINE WATERS TO ALLOW CONSTRUCTION OF RESIDENCES ON PREVIOUSLY PLATTED UNDEVELOPED LOTS OF FIVE THOUSAND SQUARE FEET OR LESS THAT ARE LOCATED IN INTENSIVELY DEVELOPED AREAS AND THAT WOULD OTHERWISE BE PROHIBITED UNDER CURRENT RULES.

The General Assembly of North Carolina enacts:

Section 1. Section 4.(b) of S.L. 1999-209 reads as rewritten:

"Section 4.(b) SCFL ~~Not~~ Valid to Take Crabs. -- ~~Notwithstanding G.S. 113-168.2, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina under a SCFL or any other license issued by the Division other than an interim crab license issued pursuant to this section.~~ A person who holds a SCFL or a RSCFL may take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina."

Section 2. Between the date on which this act becomes effective and ending 1 October 2000, a person who holds an interim crab license established under Section 4 of S.L. 1999-209 may apply for a Standard Commercial Fishing License (SCFL) from the pool of available licenses established under Section 5.2 of S.L. 1997-400, as amended by Section 4.24 of S.L. 1998-225, as provided in this section. Notwithstanding subsections (c), (e), and (f) of Section 5.2 of S.L. 1997-400, as amended by Section 4.24 of S.L. 1998-225, the Marine Fisheries Commission shall increase the number of SCFLs in the pool of available licenses to the extent necessary to allow the Division of Marine Fisheries to issue a SCFL to each person who

holds an interim crab license; who applies for a SCFL between the date this act becomes effective and 1 October 2000; and who qualifies for a SCFL under the eligibility criteria established pursuant to subsection (h) of Section 5.2 of S.L. 1997-400, as amended by Section 4.24 of S.L. 1998-225. The Division of Marine Fisheries may issue only one SCFL to a person under this section regardless of the number of interim crab licenses the person holds. The duration of and fee for a SCFL issued pursuant to this section shall be as provided in G.S. 113-168.1 and G.S. 113-168.2, regardless of when the SCFL is issued.

Section 3. Notwithstanding G.S. 150B-21.3(a) and 26 NCAC 2C.0102(11), the Coastal Resources Commission may adopt a temporary rule to establish criteria for exceptions to the regulatory requirement, effective 1 August 2000, of a 30-foot development setback along public trust and estuarine waters to allow construction of residences on previously platted undeveloped lots of 5,000 square feet or less that are located in intensively developed areas and that would otherwise be prohibited under rules adopted by the Commission pursuant to Article 7 of Chapter 113A of the General Statutes. The temporary rule shall become effective upon its adoption by the Commission and shall remain in effect until a permanent rule that replaces the temporary rule becomes effective.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 9:09 a.m. on the 2nd day of August, 2000.

S.B. 1477 **SESSION LAW 2000-143**

AN ACT TO PROVIDE FOR A NEW, SUSTAINABLY DESIGNED, STATE OFFICE BUILDING AND WILDLIFE EDUCATION CENTER WITH RELATED PARKING FACILITIES, TO BE USED BY THE WILDLIFE RESOURCES COMMISSION, PURSUANT TO AN INSTALLMENT FINANCING CONTRACT IN A PRINCIPAL AMOUNT NOT TO EXCEED THIRTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS, AND TO PROVIDE FOR A NEW EASTERN WILDLIFE EDUCATION CENTER WITH RELATED PARKING FACILITIES, TO BE ADMINISTERED BY THE WILDLIFE RESOURCES COMMISSION, PURSUANT TO AN INSTALLMENT FINANCING CONTRACT IN A PRINCIPAL AMOUNT NOT TO EXCEED FOUR MILLION DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. Authorization of Projects. -- (a) Raleigh Wildlife Center. -- The Department of Administration is authorized to acquire, construct, and equip a new State administrative office building and wildlife education center, and related parking facilities, to be located

on the Centennial Campus of North Carolina State University at Raleigh, in the City of Raleigh, North Carolina, to be used by the Wildlife Resources Commission. Title to these facilities shall be held in the name of the State. The cost of acquiring, constructing, and equipping these facilities shall be financed as provided in this act.

Section 1.(b) Eastern Wildlife Education Center. -- The Department of Administration is authorized to acquire, construct, and equip a new State wildlife education center, and related parking facilities, to be located in Currituck County and to be administered by the Wildlife Resources Commission. Title to these facilities shall be held in the name of the State. The cost of acquiring, constructing, and equipping these facilities shall be financed as provided in this act.

Section 2. Definitions. -- Unless a different meaning is required by the context, the following definitions apply in this act:

(1) "Certificates of participation" means certificates or other instruments delivered by a special corporation as provided in this act evidencing the assignment of proportionate and undivided interests in the rights to receive installment payments to be made by the State pursuant to a financing contract.

(2) "Cost" includes all of the following, without limiting or restricting any proper definition of this term in financing the cost of a Project as authorized by this act:
   a. The cost of acquiring, constructing, and equipping the Project, including the acquisition of rights-of-way, easements, franchises, equipment, furnishings, and other interests in real or personal property acquired or used in connection with the Project.
   b. The cost of engineering, architectural, and other consulting services as may be required.
   c. Finance charges, reserves for installment payments and interest prior to and during construction and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction.
   d. Administrative expenses and charges.
   e. The cost of bond insurance, credit and liquidity facilities, interest rate swap agreements, financial and legal consultants, and related costs of financing the Project or delivering and selling certificates of participation, to the extent and as determined by the State Treasurer.
   f. The cost of reimbursing the State for any payments made for any cost described above.
   g. Any other costs and expenses necessary or incidental to the purposes of this act.

(3) "Credit facility" means an agreement that:
   a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an

insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any financing contract or certificates of participation in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(4) "Department of Administration" means the North Carolina Department of Administration, created by Article 36 of Chapter 143 of the General Statutes, or should the Department of Administration be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this act to the Department of Administration.

(5) "Eastern Wildlife Education Center Project" means the (i) new State wildlife education center to be located in Currituck County, and related parking facilities, and (ii) equipment and furnishings related to the center and parking facilities.

(6) "Financing contract" means an installment financing contract entered into pursuant to the provisions of this act to finance the cost of a Project.

(7) "Office Project" means the (i) new State administrative office building and wildlife education center to be located in Raleigh, and related parking facilities, and (ii) equipment and furnishings related to the building, center, and parking facilities.

(8) "Project" means the Eastern Wildlife Education Center Project, the Office Project, or both.

(9) "Special corporation" means a nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of delivering any certificates of participation provided by this act.

(10) "State" means the State of North Carolina.

(11) "Sustainably designed facility" means a building and surrounding environs designed using features that are energy efficient, incorporate reuseable and renewable resources, provide natural lighting, are nontoxic, require low maintenance, are congruent with the natural characteristics of the site, and cause minimum adverse impact to the environment.

(12) "Wildlife Resources Commission" means the North Carolina Wildlife Commission, created by Article 24 of Chapter 143 of the General Statutes, or should the North Carolina Wildlife Resources Commission be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this act to the North Carolina Wildlife Resources Commission.

Section 3. Authorization of Financing Contracts. -- (a) The State, with the prior approval of the Council of State and the State Treasurer as provided in this act, is authorized to execute and deliver a financing contract in a principal amount not to exceed thirteen million five hundred thousand dollars ($13,500,000) in order to provide funds to the Department of Administration and the Wildlife Resources Commission to be used, together with any other available funds, to pay the cost of the Office Project.

Section 3.(b) The State, with the prior approval of the Council of State and the State Treasurer as provided in this act, is authorized to execute and deliver a financing contract in a principal amount not to exceed four million dollars ($4,000,000) in order to provide funds to the Department of Administration and the Wildlife Resources Commission to be used, together with any other available funds, to pay the cost of the Eastern Wildlife Education Center Project.

Section 3.(c) If the State determines that it is in its best interest to do so, the State may enter into one financing contract to finance both of the Projects described in subsections (a) and (b) of this section. The principal amount of the financing contract shall not, however, exceed seventeen million five hundred thousand dollars ($17,500,000).

Section 4. Approval Required. -- (a) A financing contract may not be entered into pursuant to this act unless prior to entering into the financing contract (1) the Council of State, by resolution, approves the execution and delivery of the financing contract, which resolution shall set forth (i) the not to exceed term or final maturity of the financing contract, (ii) the not to exceed interest rate or rates (or the equivalent thereof) with respect to the financing contract, and (iii) the appropriate officers of the State to execute and deliver the financing contract and all other documentation relating to it, and (2) the State Treasurer approves the financing contract and all other documentation related to it, including any deed of trust, security agreement, trust agreement, or credit facility. The resolution of the Council of State shall include any other matters as the Council of State may determine.

Section 4.(b) In determining whether to approve a financing contract, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The principal amount to be advanced to the State under the financing contract is adequate and not excessive for the purpose of paying the cost of the Project.
(2) The increase, if any, in State revenues necessary to pay the sums to become due under the financing contract is not excessive.
(3) The financing contract can be entered into on terms desirable to the State.
(4) In the case of delivery of certificates of participation, the sale of certificates of participation will not have an adverse effect upon any scheduled or proposed sale of obligations of the State or any State agency or of any unit of local government in the State.

Section 5. Security. -- (a) In order to secure the performance by the State of its obligations under a financing contract, the State may grant a lien on, or security interest in, all or any part of the Project or the land upon which the Project is or will be located.

Section 5.(b) No deficiency judgment may be rendered against the State or any agency, department, or commission of the State in any action for breach of any obligation contained in a financing contract entered into under this act or contained in any other related documentation, and the taxing power of the State or any agency, department, or commission of the State is not and may not be pledged directly or indirectly to secure any moneys due under a financing contract authorized by this act. In the event that the General Assembly does not appropriate funds sufficient to make payments required under the financing contract, the net proceeds received from the sale, lease, or other disposition of the Project or the site, or a portion of the Project or the site, subject to a lien or security interest created pursuant to subsection (a) of this section shall be applied to satisfy the payment obligations in accordance with the deed of trust, security agreement, or other documentation creating the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under a financing contract or any other related documentation shall be paid to the State Treasurer for deposit to the General Fund of the State.

Section 5.(c) A financing contract shall not contain a nonsubstitution clause that restricts the right of the State to replace or provide a substitute for the Project.

Section 5.(d) A financing contract may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to the budget proposal, appropriations necessary to make the payments required under the financing contract.

Section 5.(e) A financing contract may contain any provisions for protecting and enforcing the rights and remedies of the entity advancing moneys or providing funds under the financing contract as may be reasonable, proper, and not in violation of law, including

covenants setting forth the duties of the State in respect of the purposes to which the funds advanced under the financing contract may be applied and the duties of the State with respect to the Project, including, without limitation, provisions relating to insuring and maintaining the Project and to the custody, safeguarding, investment, and application of moneys.

Section 5.(f) The interest component of the installment payments to be made under a financing contract may be calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.

Section 5.(g) If the State Treasurer determines that it is in the best interest of the State, the State may enter into, or arrange for the delivery of, a credit facility to secure payment of the installment payments under a financing contract or to secure payment of the purchase price of any certificates of participation delivered as provided in this act.

Section 5.(h) The entity entering into a financing contract with the State and any other professionals providing services relating to the financing contract, including, without limitation, the provider of any credit facility and the underwriter or placement agent for any certificates of participation, shall be selected by the State Treasurer pursuant to a competitive bidding process or negotiated process as determined by the State Treasurer.

Section 6. Source of Repayment. -- (a) The payment of amounts payable by the State under a financing contract and other related documentation during any fiscal biennium or fiscal year shall be limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this act and no financing contract shall be construed or interpreted as creating a pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation.

Section 6.(b) It is the intent of the General Assembly that the payments due under a financing contract and any other related documentation shall be made from amounts appropriated to and deposited in the Wildlife Resources Fund pursuant to G.S. 143-250 and from funds appropriated to and deposited in the Wildlife Endowment Fund pursuant to G.S. 143-250.1, including investment earnings on these amounts, in each case to the extent the funds may be lawfully applied for this purpose. In the event that funds appropriated to and deposited in the Wildlife Resources Fund and the Wildlife Endowment Fund, including investment earnings on such amounts, are not sufficient to make these payments, the General Assembly is not obligated to appropriate additional funds necessary to make these payments. The General Assembly may, however, in its discretion, appropriate the additional funds.

Section 6.(c) A financing contract entered into pursuant to this act shall incorporate a statement which sets forth a description of the provisions of subsections (a) and (b) of this section.

Section 6.(d) Expenditures during each fiscal biennium or fiscal year from the Wildlife Resources Fund and the Wildlife Endowment Fund shall be administered by the Wildlife Resources Commission in such a manner so as to assure that sufficient amounts shall be available in the Wildlife Resources Fund and the Wildlife Endowment Fund to make the required payments under a financing contract and any other related documentation.

Section 7. Certificates of Participation. -- (a) If certificates of participation are delivered pursuant to this act, a special corporation shall be created for the purpose of entering into a financing contract and executing and delivering certificates of participation. The special corporation shall furnish to the State Treasurer any information and documentation relating to the delivery and sale of the certificates of participation that the State Treasurer requests.

Section 7.(b) Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this act, except that the sale must be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

Section 7.(c) Certificates of participation may be delivered pursuant to a trust agreement with a corporate trustee approved by the State Treasurer. The corporate trustee may be any trust company or bank having the powers of a trust company within or without the State. A trust agreement may (i) provide for security and pledges and assignments with respect to the security as may be permitted under this act and further provide for the enforcement of any lien or security interest created pursuant to Section 5(a) of this act, and (ii) contain any provisions for protecting and enforcing the rights and remedies of the owners of any certificates of participation as may be reasonable, proper, and not in violation of law, as determined by the State Treasurer.

Section 8. Insurance. -- The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, credit facilities, interest rate swap agreements, and any other related instruments that the State Treasurer considers desirable in connection with the financing of a Project as provided in this act.

Section 9. Tax Exemption. -- A financing contract entered into under this act and any certificates of participation relating to it are exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except for inheritance, estate, and gift taxes, income taxes on the gain from the transfer of the financing contract or certificates of participation, and franchise taxes. The interest component of the installment payments made by the State under the financing contract, including the interest component of any certificates of participation, is not subject to taxation as income.

Section 10. Public Contracts. -- The provisions of Articles 3 (Purchase and Contracts), 3B (Energy Conservation in Public Facilities), 3C (Contracts to Obtain Consultant Services), 3D (Procurement of Architectural, Engineering, and Surveying Services), and 8 (Public Contracts) of Chapter 143 of the General Statutes and any other laws, rules, or regulations of the State as relate to the acquisition and construction of State property apply to a Project. It is the intent of the General Assembly that the Office Project should be a sustainably designed facility.

Section 11. Interpretation of Act. -- (a) The foregoing sections of this act provide an additional and alternative method for the doing of the things authorized by the act, are supplemental and additional to powers conferred by other laws, and do not derogate any powers now existing.

Section 11.(b) References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as amended and as they may be amended from time to time by the General Assembly.

Section 11.(c) This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

Section 11.(d) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

Section 12. Effective Date. -- This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 9:11 a.m. on the 2nd day of August, 2000.

S.B. 1323 **SESSION LAW 2000-144**

AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE INDIGENT DEFENSE STUDY COMMISSION TO ESTABLISH AN OFFICE OF INDIGENT DEFENSE SERVICES.

The General Assembly of North Carolina enacts:

PART I. OFFICE OF INDIGENT DEFENSE SERVICES

Section 1. Subdivision IX of Chapter 7A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 39B.

"Indigent Defense Services Act.

"*§ 7A-498. Title.*

This Article shall be known and may be cited as the 'Indigent Defense Services Act of 2000'.

"§ 7A-498.1. *Purpose.*

Whenever a person is determined to be indigent and entitled to counsel, it is the responsibility of the State under the federal and state constitutions to provide that person with counsel and the other necessary expenses of representation. The purpose of this Article is to:

(1) Enhance oversight of the delivery of counsel and related services provided at State expense;

(2) Improve the quality of representation and ensure the independence of counsel;

(3) Establish uniform policies and procedures for the delivery of services;

(4) Generate reliable statistical information in order to evaluate the services provided and funds expended; and

(5) Deliver services in the most efficient and cost-effective manner without sacrificing quality representation.

"§ 7A-498.2. *Establishment of Office of Indigent Defense Services.*

(a) The Office of Indigent Defense Services, which is administered by the Director of Indigent Defense Services and includes the Commission on Indigent Defense Services, is created within the Judicial Department. As used in this Article, 'Office' means the Office of Indigent Defense Services, 'Director' means the Director of Indigent Defense Services, and 'Commission' means the Commission on Indigent Defense Services.

(b) The Office of Indigent Defense Services shall exercise its prescribed powers independently of the head of the Administrative Office of the Courts. The Office may enter into contracts, own property, and accept funds, grants, and gifts from any public or private source to pay expenses incident to implementing its purposes.

(c) The Director of the Administrative Office of the Courts shall provide general administrative support to the Office of Indigent Defense Services. The term 'general administrative support' includes purchasing, payroll, and similar administrative services.

(d) The budget of the Office of Indigent Defense Services shall be a part of the Judicial Department's budget. The Commission on Indigent Defense Services shall consult with the Director of the Administrative Office of the Courts, who shall assist the Commission in preparing and presenting to the General Assembly the Office's budget, but the Commission shall have the final authority with respect to preparation of the Office's budget and with respect to representation of matters pertaining to the Office before the General Assembly.

(e) The Director of the Administrative Office of the Courts shall not reduce or modify the budget of the Office of Indigent Defense Services or use funds appropriated to the Office without the approval of the Commission.

"§ 7A-498.3. *Responsibilities of Office of Indigent Defense Services.*

(a) The Office of Indigent Defense Services shall be responsible for establishing, supervising, and maintaining a system for providing legal representation and related services in the following cases:

(1) Cases in which an indigent person is subject to a deprivation of liberty or other constitutionally protected interest and is entitled by law to legal representation;

(2) Cases in which an indigent person is entitled to legal representation under G.S. 7A-451 and G.S. 7A-451.1; and

(3) Any other cases in which the Office of Indigent Defense Services is designated by statute as responsible for providing legal representation.

(b) The Office of Indigent Defense Services shall develop policies and procedures for determining indigency in cases subject to this Article, and those policies shall be applied uniformly throughout the State. The court shall determine in each case whether a person is indigent and entitled to legal representation, and counsel shall be appointed as provided in G.S. 7A-452.

(c) In all cases subject to this Article, appointment of counsel, determination of compensation, appointment of experts, and use of funds for experts and other services related to legal representation shall be in accordance with rules and procedures adopted by the Office of Indigent Defense Services.

(d) The Office of Indigent Defense Services shall allocate and disburse funds appropriated for legal representation and related services in cases subject to this Article pursuant to rules and procedures established by the Office.

"*§ 7A-498.4. Establishment of Commission on Indigent Defense Services.*

(a) The Commission on Indigent Defense Services is created within the Office of Indigent Defense Services and shall consist of 13 members. To create an effective working group, assure continuity, and achieve staggered terms, the Commission shall be appointed as provided in this section.

(b) The members of the Commission shall be appointed as follows:

(1) The Chief Justice of the North Carolina Supreme Court shall appoint one member, who shall be an active or former member of the North Carolina judiciary.

(2) The Governor shall appoint one member, who shall be a nonattorney.

(3) The General Assembly shall appoint one member upon the recommendation of the President Pro Tempore of the Senate.

(4) The General Assembly shall appoint one member upon the recommendation of the Speaker of the House of Representatives.

(5) The North Carolina Public Defenders Association shall appoint one member.

(6) The North Carolina State Bar shall appoint one member.

(7) The North Carolina Bar Association shall appoint one member.

(8) The North Carolina Academy of Trial Lawyers shall appoint one member.

(9) The North Carolina Association of Black Lawyers shall appoint one member.

(10) The North Carolina Association of Women Lawyers shall appoint one member.

(11) The Commission shall appoint three members, who shall reside in different judicial districts from one another. One appointee shall be a nonattorney, and one appointee may be an active member of the North Carolina judiciary. One appointee shall be Native American. The initial three members satisfying this subdivision shall be appointed as provided in subsection (k) of this section.

(c) The terms of members appointed pursuant to subsection (b) of this section shall be as follows:

(1) The initial appointments by the Chief Justice, the Governor, and the General Assembly shall be for four years.

(2) The initial appointments by the Public Defenders Association and State Bar, and one appointment by the Commission, shall be for three years.

(3) The initial appointments by the Bar Association and Trial Academy, and one appointment by the Commission, shall be for two years.

(4) The initial appointments by the Black Lawyers Association and Women Lawyers Association, and one appointment by the Commission, shall be for one year.

At the expiration of these initial terms, appointments shall be for four years and shall be made by the appointing authorities designated in subsection (b) of this section. No person shall serve more than two consecutive four-year terms plus any initial term of less than four years.

(d) Persons appointed to the Commission shall have significant experience in the defense of criminal or other cases subject to this Article or shall have demonstrated a strong commitment to quality representation in indigent defense matters. No active prosecutors or law enforcement officials, or active employees of such persons, may be appointed to or serve on the Commission. No active judicial officials, or active employees of such persons, may be appointed to or serve on the Commission, except as provided in subsection (b) of this section. No active public defenders, active employees of public defenders, or other active employees of the Office of Indigent Defense Services may be appointed to or serve on the Commission, except that notwithstanding this subsection, G.S. 14-234, or any other provision of law, Commission members may include part-time public defenders employed by the Office of Indigent Defense Services and may include persons, or employees of persons or organizations, who provide legal services subject to this Article as contractors or appointed attorneys.

(e) All members of the Commission are entitled to vote on any matters coming before the Commission unless otherwise provided by rules adopted by the Commission concerning voting on matters in

which a member has, or appears to have, a financial or other personal interest.

(f) Each member of the Commission shall serve until a successor in office has been appointed. Vacancies shall be filled by appointment by the appointing authority for the unexpired term. Removal of Commission members shall be in accordance with policies and procedures adopted by the Commission.

(g) A quorum for purposes of conducting Commission business shall be a majority of the members of the Commission.

(h) The Commission shall elect a Commission chair from the members of the Commission for a term of two years.

(i) The Director of Indigent Defense Services shall attend all Commission meetings except those relating to removal or reappointment of the Director or allegations of misconduct by the Director. The Director shall not vote on any matter decided by the Commission.

(j) Commission members shall not receive compensation but are entitled to be paid necessary subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6 as applicable.

(k) The Commission shall hold its first meeting no later than September 15, 2000. All appointments to the Commission specified in subdivisions (1) through (10) of subsection (b) of this section shall be made by the appointing authorities by September 1, 2000. The appointee of the Chief Justice shall convene the first meeting. No later than 30 days after its first meeting, the Commission shall make the appointments specified in subdivision (11) of subsection (b) of this section and shall elect its chair.

"*§ 7A-498.5. Responsibilities of Commission.*

(a) The Commission shall have as its principal purpose the development and improvement of programs by which the Office of Indigent Defense Services provides legal representation to indigent persons.

(b) The Commission shall appoint the Director of the Office of Indigent Defense Services, who shall be chosen on the basis of training, experience, and other qualifications. The Commission shall consult with the Chief Justice and Director of the Administrative Office of the Courts in selecting a Director, but shall have final authority in making the appointment.

(c) The Commission shall develop standards governing the provision of services under this Article. The standards shall include:

(1) Standards for maintaining and operating regional and district public defender offices and appellate defender offices, including requirements regarding qualifications, training, and size of the legal and supporting staff;

(2) Standards prescribing minimum experience, training, and other qualifications for appointed counsel;

(3) Standards for public defender and appointed counsel caseloads;

(4) Standards for the performance of public defenders and appointed counsel;

(5) Standards for the independent, competent, and efficient representation of clients whose cases present conflicts of interest, in both the trial and appellate courts;

(6) Standards for providing and compensating experts and others who provide services related to legal representation;

(7) Standards for qualifications and performance in capital cases; and

(8) Standards for determining indigency and for assessing and collecting the costs of legal representation and related services.

(d) The Commission shall determine the methods for delivering legal services to indigent persons eligible for legal representation under this Article and shall establish in each district or combination of districts a system of appointed counsel, contract counsel, part-time public defenders, public defender offices, appellate defender services, and other methods for delivering counsel services, or any combination of these services.

(e) In determining the method of services to be provided in a particular district, the Director shall consult with the district bar as defined in G.S. 84-19 and the judges of the district or districts under consideration. The Commission shall adopt procedures ensuring that affected local bars have the opportunity to be significantly involved in determining the method or methods for delivering services in their districts. The Commission shall solicit written comments from the affected local district bar, senior resident superior court judge, and chief district court judge. Those comments, along with the recommendations of the Commission, shall be forwarded to the members of the General Assembly who represent the affected district and to other interested parties.

(f) The Commission shall establish policies and procedures with respect to the distribution of funds appropriated under this Article, including rates of compensation for appointed counsel, schedules of allowable expenses, appointment and compensation of expert witnesses, and procedures for applying for and receiving compensation.

(g) The Commission shall approve and recommend to the General Assembly a budget for the Office of Indigent Defense Services.

(h) The Commission shall adopt such other rules and procedures as it deems necessary for the conduct of business by the Commission and the Office of Indigent Defense Services.

"*§ 7A-498.6. Director of Indigent Defense Services.*

(a) The Director of Indigent Defense Services shall be appointed by the Commission for a term of four years. The Director may be removed during this term in the discretion of the Commission by a vote of two-thirds of all of the Commission members. The Director shall be an attorney licensed and eligible to practice in the courts of

this State at the time of appointment and at all times during service as the Director.

(b) The Director shall:

(1) Prepare and submit to the Commission a proposed budget for the Office of Indigent Defense Services, an annual report containing pertinent data on the operations, costs, and needs of the Office, and such other information as the Commission may require;

(2) Assist the Commission in developing rules and standards for the delivery of services under this Article;

(3) Administer and coordinate the operations of the Office and supervise compliance with standards adopted by the Commission;

(4) Subject to policies and procedures established by the Commission, hire such professional, technical, and support personnel as deemed reasonably necessary for the efficient operation of the Office of Indigent Defense Services;

(5) Keep and maintain proper financial records for use in calculating the costs of the operations of the Office of Indigent Defense Services;

(6) Apply for and accept on behalf of the Office of Indigent Defense Services any funds that may become available from government grants, private gifts, donations, or bequests from any source;

(7) Coordinate the services of the Office of Indigent Defense Services with any federal, county, or private programs established to provide assistance to indigent persons in cases subject to this Article and consult with professional bodies concerning improving the administration of indigent services;

(8) Conduct training programs for attorneys and others involved in the legal representation of persons subject to this Article; and

(9) Perform other duties as the Commission may assign.

"§ *7A-498.7. Public Defender Offices.*

(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

Defender District	Counties
3A	Pitt
3B	Carteret
12	Cumberland
14	Durham
15B	Orange, Chatham
16A	Scotland, Hoke
16B	Robeson

18	Guilford
26	Mecklenburg
27A	Gaston
28	Buncombe

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office.

(b) For each new term, and to fill any vacancy, public defenders shall be appointed from a list of not less than two and not more than three names nominated by written ballot of the attorneys resident in the defender district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to rules adopted by the Commission on Indigent Defense Services. The appointment shall be made by the senior resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-44.1 that includes the county or counties of the defender district for which the public defender is being appointed.

(c) A public defender shall be an attorney licensed to practice law in North Carolina and shall devote full time to the duties of the office. In lieu of merit and other increment raises paid to regular State employees, a public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20 years of service. 'Service' means service as a public defender, appellate defender, assistant public or appellate defender, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court.

(d) Subject to standards adopted by the Commission, the day-to-day operation and administration of public defender offices shall be the responsibility of the public defender in charge of the office. The public defender shall keep appropriate records and make periodic reports, as requested, to the Director of the Office of Indigent Defense Services on matters related to the operation of the office.

(e) The Office of Indigent Defense Services shall procure office equipment and supplies for the public defender, and provide secretarial and library support from State funds appropriated to the public defender's office for this purpose.

(f) Each public defender is entitled to assistant public defenders, investigators, and other staff, full-time or part-time, as may be authorized by the Commission. Assistants, investigators, and other staff are appointed by the public defender and serve at the pleasure of the public defender. Average and minimum compensation of

assistants shall be as provided in the biennial Current Operations Appropriations Act. The actual salaries of assistants shall be set by the public defender in charge of the office, subject to approval by the Commission. The Commission shall fix the compensation of investigators. Assistants and investigators shall perform such duties as may be assigned by the public defender.

(g) In lieu of merit and other increment raises paid to regular State employees, an assistant public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20 years of service. 'Service' means service as a public defender, appellate defender, assistant public or appellate defender, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court.

(h) The term of office of public defender appointed under this section is four years. A public defender or assistant public defender may be suspended or removed from office, and reinstated, for the same causes and under the same procedures as are applicable to removal of a district attorney.

"§ 7A-498.8. *Appellate Defender.*

(a) The appellate defender shall be appointed by the Commission on Indigent Defense Services for a term of four years. A vacancy in the office of appellate defender shall be filled by appointment of the Commission on Indigent Defense Services for the unexpired term. The appellate defender may be suspended or removed from office for cause by two-thirds vote of all the members of the Commission on Indigent Defense Services. The Commission shall provide the appellate defender with timely written notice of the alleged causes and an opportunity for hearing before the Commission prior to taking any final action to remove or suspend the appellate defender, and the appellate defender shall be given written notice of the Commission's decision. The appellate defender may obtain judicial review of suspension or removal by the Commission by filing a petition within 30 days of receiving notice of the decision with the Superior Court of Wake County. Review of the Commission's decision shall be heard on the record and not as a de novo review or trial de novo. The Commission shall adopt rules implementing this section.

(b) The appellate defender shall perform such duties as may be directed by the Office of Indigent Defense Services, including:

(1) Representing indigent persons subsequent to conviction in trial courts. The Office of Indigent Defense Services may, following consultation with the appellate defender and consistent with the resources available to the appellate defender to ensure quality criminal defense services by the appellate defender's office, assign appeals, or authorize the

appellate defender to assign appeals, to a local public defender's office or to private assigned counsel.

(2) Maintaining a clearinghouse of materials and a repository of briefs prepared by the appellate defender to be made available to private counsel representing indigents in criminal cases.

(3) Providing continuing legal education training to assistant appellate defenders and to private counsel representing indigents in criminal cases, including capital cases, as resources are available.

(4) Providing consulting services to attorneys representing defendants in capital cases.

(5) Recruiting qualified members of the private bar who are willing to provide representation in State and federal death penalty postconviction proceedings.

(6) In the appellate defender's discretion, serving as counsel of record for indigent defendants in capital cases in State court.

(7) Undertaking direct representation and consultation in capital cases pending in federal court only to the extent that such work is fully federally funded.

(c) The appellate defender shall appoint assistants and staff, not to exceed the number authorized by the Office of Indigent Defense Services. The assistants and staff shall serve at the pleasure of the appellate defender.

(d) Funds to operate the office of appellate defender, including office space, office equipment, supplies, postage, telephone, library, staff salaries, training, and travel, shall be provided by the Office of Indigent Defense Services from funds authorized by law. Salaries shall be set by the Office of Indigent Defense Services."

PART II. AMENDMENTS TO CHAPTER 7A OF THE GENERAL STATUTES

Section 2. G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

(1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars ($5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.

(2) For the use of the courtroom and related judicial facilities, the sum of twelve dollars ($12.00) in the district court, including cases before a magistrate, and the sum of thirty dollars ($30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public ~~defenders,~~ defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may, with the approval of the Administrative Officer of the Courts as to the amount, use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county.

(3) For the retirement and insurance benefits of both State and local government law-enforcement officers, the sum of seven dollars and twenty-five cents ($7.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum shall be administered as is provided in Article 12C of Chapter 143 of the General Statutes. Five dollars and seventy-five cents ($5.75) of this sum shall be administered as is provided in Article 12E of Chapter 143 of the General Statutes, with one dollar and twenty-five cents ($1.25) being administered in accordance with the provisions of G.S. 143-166.50(e). One dollar ($1.00) of this sum shall be administered as is provided in Article 12F of Chapter 143 of the General Statutes.

(3a) For the supplemental pension benefits of sheriffs, the sum of seventy-five cents (75¢) to be remitted to the Department of Justice and administered under the provisions of Article 12G of Chapter 143 of the General Statutes.

(4) For support of the General Court of Justice, the sum of sixty-one dollars ($61.00) in the district court, including cases before a magistrate, and the sum of sixty-eight dollars ($68.00) in the superior court, to be remitted to the State Treasurer.

(5) For using pretrial release services, the district or superior court judge shall, upon conviction, impose a fee of fifteen dollars ($15.00) to be remitted to the county providing the pretrial release services. This cost shall be assessed and collected only if the defendant had been accepted and released to the supervision of the agency providing the pretrial release services.

(6) For support of the General Court of Justice, for the issuance by the clerk of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2, the sum of fifty dollars ($50.00), to be remitted to the State Treasurer. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive this fee."

Section 3. G.S. 7A-314(d) reads as rewritten:

"(d) An expert witness, other than a salaried State, county, or municipal law-enforcement officer, shall receive such compensation and allowances as the court, or the Judicial Standards Commission, in its discretion, may authorize. A law-enforcement officer who appears as an expert witness shall receive reimbursement for travel expenses only, as provided in subsection (b) of this section. Compensation of experts provided under G.S. 7A-454 shall be in accordance with rules established by the Office of Indigent Defense Services."

Section 4. G.S. 7A-344 is repealed.

Section 5. G.S. 7A-450(a) reads as rewritten:

"(a) An indigent person is a person who is financially unable to secure legal representation and to provide all other necessary expenses of representation in an action or proceeding enumerated in this Subchapter. An interpreter is a necessary expense as defined in ~~Chapter 8A~~ Chapter 8B of the General Statutes for a deaf person who is entitled to counsel under this subsection."

Section 6. G.S. 7A-451 reads as rewritten:

"§ *7A-451. Scope of entitlement.*

(a) An indigent person is entitled to services of counsel in the following actions and proceedings:

(1) Any case in which imprisonment, or a fine of five hundred dollars ($500.00), or more, is likely to be adjudged;

(2) A hearing on a petition for a writ of habeas corpus under Chapter 17 of the General Statutes;

(3) A motion for appropriate relief under Chapter 15A of the General Statutes if the defendant has been convicted of a felony, has been fined five hundred dollars ($500.00) or more, or has been sentenced to a term of imprisonment;

(4) A hearing for revocation of probation;
(5) A hearing in which extradition to another state is sought;
(6) A proceeding for an inpatient involuntary commitment to a facility under Part 7 of Article 5 of Chapter 122C of the General Statutes, or a proceeding for commitment under Part 8 of Article 5 of Chapter 122C of the General Statutes.
(7) In any case of execution against the person under Chapter 1, Article 28 of the General Statutes, and in any civil arrest and bail proceeding under Chapter 1, Article 34, of the General Statutes;
(8) In the case of a juvenile, a hearing as a result of which commitment to an institution or transfer to the superior court for trial on a felony charge is possible;
(9) A hearing for revocation of parole at which the right to counsel is provided in accordance with the provisions of Chapter 148, Article 4, of the General Statutes;
(10) A proceeding for sterilization under Chapter 35, Article 7 (Sterilization of Persons Mentally Ill and Mentally Retarded) of the General Statutes; and
(11) A proceeding for the provision of protective services according to ~~Chapter 108, Article 4,~~ Chapter 108A, Article 6 of the General Statutes;
(12) In the case of a juvenile alleged to be neglected under Chapter 7A, Article 23 of the General Statutes;
(13) A proceeding to find a person incompetent under Subchapter I of Chapter 35A, of the General Statutes;
(14) A proceeding to terminate parental rights where a guardian ad litem is appointed pursuant to G.S. 7B-1101;
(15) An action brought pursuant to Article 24B of Chapter 7A of the General Statutes to terminate an indigent person's parental rights.
(16) A proceeding involving consent for an abortion on an unemancipated minor pursuant to Article 1A, Part 2 of Chapter 90 of the General Statutes. G.S. 7A-450.1, 7A-450.2, and 7A-450.3 shall not apply to this proceeding.

(b) In each of the actions and proceedings enumerated in subsection (a) of this section, entitlement to the services of counsel begins as soon as feasible after the indigent is taken into custody or service is made upon him of the charge, petition, notice or other initiating process. Entitlement continues through any critical stage of the action or proceeding, including, if applicable:

(1) An in-custody interrogation;
(2) A pretrial identification procedure which occurs after formal charges have been preferred and at which the presence of the indigent is required;
(3) A hearing for the reduction of bail, or to fix bail if bail has been earlier denied;
(4) A probable cause hearing;
(5) Trial and sentencing; and

(6) Review of any judgment or decree pursuant to G.S. 7A-27, 7A-30(1), 7A-30(2), and Subchapter XIV of Chapter 15A of the General Statutes.

(c) In any capital case, an indigent defendant who is under a sentence of death may apply to the superior court of the district where the defendant was indicted for the appointment of counsel to represent the defendant in preparing, filing, and litigating a motion for appropriate relief. The application for the appointment of such postconviction counsel may be made prior to completion of review on direct appeal and shall be made no later than 10 days from the latest of the following:

(1) The mandate has been issued by the Supreme Court of North Carolina on direct appeal pursuant to N.C.R. App. P. 32(b) and the time for filing a petition for writ of certiorari to the United States Supreme Court has expired without a petition being filed;

(2) The United States Supreme Court denied a timely petition for writ of certiorari of the decision on direct appeal by the Supreme Court of North Carolina; or

(3) The United States Supreme Court granted the defendant's or the State's timely petition for writ of certiorari of the decision on direct appeal by the Supreme Court of North Carolina, but subsequently left the defendant's death sentence undisturbed.

If there is not a criminal or mixed session of superior court scheduled for that district, the application must be made no later than 10 days from the beginning of the next criminal or mixed session of superior court in the district. Upon application, supported by the defendant's affidavit, the superior court shall enter an order appointing ~~two counsel~~ the Office of Indigent Defense Services if the court finds that the defendant is indigent and desires ~~counsel.~~ counsel, and the Office of Defense Services shall appoint two counsel to represent the defendant. The defendant does not have a right to be present at the time of appointment of counsel, and the appointment need not be made in open court. If the defendant was previously adjudicated an indigent for purposes of trial or direct appeal, the defendant shall be presumed indigent for purposes of this subsection.

(d) The appointment of counsel as provided in subsection (c) of this section and the procedure for compensation shall comply with ~~the Rules and Regulations Relating to the Appointment of Counsel for Indigent Defendants pursuant to G.S. 7A-459. The court may appoint counsel recruited by the Appellate Defender pursuant to G.S. 7A-486.3(5).~~ rules adopted by the Office of Indigent Defense Services.

(e) No counsel appointed pursuant to subsection (c) of this section shall have previously represented the defendant at trial or on direct appeal in the case for which the appointment is made unless the defendant expressly requests continued representation and

understandingly waives future allegations of ineffective assistance of counsel."

Section 7. G.S. 7A-452 reads as rewritten:

"*§ 7A-452. Source of counsel; fees; appellate records.*

(a) ~~Counsel for an indigent person shall be assigned by the court.~~ Upon the court's determination that a person is indigent and entitled to counsel under this Article, counsel shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services. In noncapital cases, the court shall assign counsel pursuant to rules adopted by the Office of Indigent Defense Services. In capital cases, the Office of Indigent Defense Services or designee of the Office of Indigent Defense Services shall assign counsel; at least one member of each capital defense team, where practicable, shall be a member of the bar in that division. In the courts of those counties which have a public defender, however, the public defender may tentatively assign himself or an assistant public defender to represent an indigent person, subject to subsequent ~~approval~~ determination of entitlement to counsel by the ~~court.~~ court and approval by the court in noncapital cases and by the Office of Indigent Defense Services in capital cases.

(b) Fees of assigned counsel and salaries and other operating expenses of the offices of the public defenders shall be borne by the State.

(c)(1) The clerk of superior court is authorized to make a determination of indigency and ~~to appoint counsel,~~ entitlement to counsel, as authorized by this Article. The word "court," as it is used in this Article and in any rules pursuant to this Article, includes the clerk of superior court.

(2) A judge of superior or district court having authority to ~~appoint~~ determine entitlement to counsel in a particular case may give directions to the clerk with regard to the ~~appointment of~~ determination of entitlement to counsel in that case; may, if he finds it appropriate, change or modify the ~~appointment of counsel when counsel has been appointed~~ determination made by the clerk; and may set aside a finding of waiver of counsel made by the clerk.

(d) Unless a public defender or assistant public defender is appointed to serve, ~~the trial judge appointing~~ standby counsel appointed under G.S. 15A-1243 shall ~~award~~ receive reasonable compensation to be paid by the State."

Section 8. G.S. 7A-453 reads as rewritten:

"*§ 7A-453. Duty of custodian of a possibly indigent person; determination of indigency.*

(a) In counties ~~which have a public defender,~~ designated by the Office of Indigent Defense Services, the authority having custody of a person who is without counsel for more than 48 hours after being taken into custody shall so inform the ~~public defender.~~ designee of the Office of Indigent Defense Services. The ~~public defender~~ designee of the Office of Indigent Defense Services shall make a preliminary

determination as to the person's entitlement to his services, and proceed accordingly. The court shall make the final determination.

(b) In counties ~~which do not have a public defender,~~ that have not been designated by the Office of Indigent Defense Services, the authority having custody of a person who is without counsel for more than 48 hours after being taken into custody shall so inform the clerk of superior court.

(c) In any county, if a defendant, upon being taken into custody, states that he is indigent and desires counsel, the authority having custody shall immediately inform the ~~defender~~ designee of the Office of Indigent Defense Services or the clerk of superior court, as the case may be, who shall take action as provided in this Article.

(d) The duties imposed by this section upon authorities having custody of persons who may be indigent are in addition to the duties imposed upon arresting officers under G.S. 15-47."

Section 9. G.S. 7A-454 reads as rewritten:

"§ *7A-454. Supporting services.*

~~The court, in its discretion, may approve a fee for the service of an expert witness who testifies for an indigent person, and shall approve reimbursement for the necessary expenses of counsel. Fees and expenses accrued under this section shall be paid by the State.~~ Fees for the services of an expert witness for an indigent person and other necessary expenses of counsel shall be paid by the State in accordance with rules adopted by the Office of Indigent Defense Services."

Section 10. G.S. 7A-455 reads as rewritten:

"§ *7A-455. Partial indigency; liens; acquittals.*

(a) If, in the opinion of the court, an indigent person is financially able to pay a portion, but not all, of the value of the legal services rendered for him by assigned counsel, the public defender, or the appellate defender, and other necessary expenses of representation, he shall order the partially indigent person to pay such portion to the clerk of superior court for transmission to the State treasury.

(b) In all cases the court shall ~~fix the money value of services rendered by assigned counsel, the public defender, or the appellate defender, and such sum plus any sums allowed by the court for other necessary expenses of representing the indigent person, including any fees and expenses that may have been allowed prior to final determination of the action to assigned counsel pursuant to G.S. 7A-458, shall be entered as~~ direct that a judgment be entered in the office of the clerk of superior ~~court, and~~ court for the money value of services rendered by assigned counsel, the public defender, or the appellate defender, plus any sums allowed for other necessary expenses of representing the indigent person, including any fees and expenses that may have been allowed prior to final determination of the action to assigned counsel pursuant to G.S. 7A-458, which shall constitute a lien as prescribed by the general law of the State applicable to judgments. Any reimbursement to the State as provided in subsection (a) of this section or any funds collected by reason of such judgment shall be deposited in the State treasury and credited

against the ~~judgment; provided, that counsel fees ordered paid to the clerk on behalf of the appointed counsel pursuant to G.S. 15A-1343(c) may be paid directly to the counsel.~~ judgment. The value of services shall be determined in accordance with rules adopted by the Office of Indigent Defense Services. ~~In fixing the~~ The money value of services rendered by the public defender and the appellate ~~defender, the court shall consider~~ defender shall be based upon the factors normally involved in fixing the fees of private attorneys, such as the nature of the case, the time, effort, and responsibility involved, and the fee usually charged in similar cases. ~~The value of the services shall be fixed by a~~ A district court judge shall direct entry of judgment for actions or proceedings finally determined in the district court and ~~by~~ a superior court judge shall direct entry of judgment for actions or proceedings originating in, heard on appeal in, or appealed from the superior court. Even if the trial, appeal, hearing, or other proceeding is never held, preparation therefor is nevertheless compensable.

(b1) In every case in which the State is entitled to a lien pursuant to this section, the public defender shall at the time of sentencing or other conclusion of the proceedings petition the court to enter judgment for the value of the legal services rendered by the public defender, and the appellate defender shall upon completion of the appeal petition or request the trial court to enter judgment for the value of the legal services rendered by the appellate defender.

(c) No order for partial payment under subsection (a) of this section and no judgment under subsection (b) of this section shall be entered unless the indigent person is convicted. If the indigent person is convicted, the order or judgment shall become effective and the judgment shall be docketed and indexed pursuant to G.S. 1-233 et seq., in the amount then owing, upon the later of (i) the date upon which the conviction becomes final if the indigent person is not ordered, as a condition of probation, to pay the State of North Carolina for the costs of his representation in the case or (ii) the date upon which the indigent person's probation is terminated or revoked if the indigent person is so ordered.

(d) In all cases in which the entry of a judgment is authorized under G.S. 7A-450.1 through G.S. 7A-450.4 or under this section, the attorney, guardian ad litem, public defender, or appellate defender who rendered the services or incurred the expenses for which the judgment is to be entered shall obtain the social security number, if any, of each person against whom judgment is to be entered. This number, or a certificate that the person has no social security number, shall be included in each fee application submitted by an assigned attorney, guardian ad litem, public defender, or appellate defender, and no order for payment entered upon an application which does not include the required social security number or certification shall be valid to authorize payment to the applicant from the Indigent Persons' Attorney Fee Fund. Each judgment docketed against any person under this section or under G.S. 7A-450.3 shall include the social security number, if any, of the judgment debtor."

Section 11. G.S. 7A-457(a) reads as rewritten:

"(a) An indigent person who has been informed of his right to be represented by counsel at any in-court proceeding, may, in writing, waive the right to in-court representation by ~~counsel,~~ counsel in accordance with rules adopted by the Office of Indigent Defense Services. Any waiver of counsel shall be effective only if the court finds of record that at the time of waiver the indigent person acted with full awareness of his rights and of the consequences of the waiver. In making such a finding, the court shall consider, among other things, such matters as the person's age, education, familiarity with the English language, mental condition, and the complexity of the crime charged."

Section 12. G.S. 7A-458 reads as rewritten:

"*§ 7A-458. Counsel fees.*

~~In districts which do not have a public defender, the court shall fix the~~ The fee to which an attorney who represents an indigent person is ~~entitled.~~ entitled shall be fixed in accordance with rules adopted by the Office of Indigent Defense Services. ~~In doing so, the court shall allow a fee~~ Fees shall be based on the factors normally considered in fixing attorneys' fees, such as the nature of the case, and the time, effort and responsibility involved. ~~Fees shall be fixed by the district court judge who hears the case for actions or proceedings finally determined in the district court and by the superior court judge who hears the case for actions or proceedings originating in, heard on appeal in, or appealed from the superior court.~~ Even if the trial, appeal, hearing or other proceeding is never held, preparation therefor is nevertheless compensable and, in capital cases and other extraordinary cases pending in superior court, ~~the presiding judge may allow~~ a fee for services rendered and payment for expenses incurred may be allowed pending final determination of the case."

Section 13. G.S. 7A-459, 7A-465, 7A-466, 7A-467, 7A-469, 7A-470, 7A-471, 7A-486, 7A-486.1, 7A-486.2, 7A-486.3, 7A-486.4, 7A-486.5, 7A-486.6, and 7A-486.7 are repealed.

PART III. AMENDMENTS TO MISCELLANEOUS OTHER STATUTES

Section 14. G.S. 1-311 reads as rewritten:

"*§ 1-311. Against the person.*

If the action is one in which the defendant might have been arrested, an execution against the person of the judgment debtor may be issued to any county within the State, after the return of an execution against his property wholly or partly unsatisfied. But no execution shall issue against the person of a judgment debtor, unless an order of arrest has been served, as provided in the Article Arrest and Bail, or unless the complaint contains a statement of facts showing one or more of the causes of arrest required by law, whether such statement of facts is necessary to the cause of action or not. Provided, that where the facts are found by a jury, the verdict shall contain a

finding of facts establishing the right to execution against the person; and where jury trial is waived and the court finds the facts, the court shall find facts establishing the right to execution against the person. Such findings of fact shall include a finding that the defendant either (i) is about to flee the jurisdiction to avoid paying his creditors, (ii) has concealed or diverted assets in fraud of his creditors, or (iii) will do so unless immediately detained. If defendant appears at the hearing on the debt and the judge has reason to believe that the defendant is indigent, he shall inform the defendant that if he is an indigent person he is entitled to services of counsel under G.S. 7A-451, that he may petition for preliminary release on the basis of his indigency, that if he does so he will have an opportunity within 72 hours to suggest to a judge his indigency for purposes of appointment of counsel and provisional release, and that the judge will thereupon immediately appoint counsel for him if it is adjudged that he is unable to pay a lawyer. If defendant appears at the hearing on the debt and the judge provisionally concludes he is indigent, counsel should be appointed ~~immediately.~~ immediately pursuant to rules adopted by the Office of Indigent Defense Services."

Section 15. G.S. 1-413 reads as rewritten:

"*§ 1-413. Issuance and form of order.*

The order may be made to accompany the summons, or to issue at any time afterwards, before judgment. It shall require the sheriff of the county where the defendant may be found forthwith to arrest him and hold him to bail in a specified sum, and to return the order at a place and time therein mentioned to the clerk of the court in which the action is brought. Notice of the return must be served on the plaintiff or his attorney as prescribed by law for the service of other notices. The order shall include a statement that if the person arrested is an indigent person he is entitled to services of counsel under G.S. 7A-451, that he may petition for preliminary release on the basis of his indigency, that if he does so he will have an opportunity within 72 hours to suggest to a judge his indigency for purposes of appointment of counsel and preliminary release, and that the judge will thereupon immediately appoint counsel for him if it is adjudged that he is unable to pay a lawyer. Appointment of counsel shall be in accordance with rules adopted by the Office of Indigent Defense Services."

Section 16. G.S. 7B-602 reads as rewritten:

"*§ 7B-602. Parent's right to counsel.*

In cases where the juvenile petition alleges that a juvenile is abused, neglected, or dependent, the parent has the right to counsel and to appointed counsel in cases of indigency unless that person waives the right. ~~In no case may the court appoint a county attorney, prosecutor, or public defender.~~"

Section 17. G.S. 7B-603 reads as rewritten:

"*§ 7B-603. Payment of court-appointed attorney or guardian ad litem.*

(a) An attorney or guardian ad litem appointed pursuant to G.S. 7B-601 ~~or G.S. 7B-602 pursuant to any other provision of the Juvenile Code~~ shall be paid a reasonable fee fixed by the court ~~in the~~

~~same manner as fees for attorneys appointed in cases of indigency~~ or by direct engagement for specialized guardian ad litem services through the Administrative Office of the Courts.

(b) An attorney appointed pursuant to G.S. 7B-602 or pursuant to any other provision of the Juvenile Code for which the Office of Indigent Defense Services is responsible for providing counsel shall be paid a reasonable fee in accordance with rules adopted by the Office of Indigent Defense Services.

(c) The court may require payment of the attorney or guardian ad litem fee from a person other than the juvenile as provided in G.S. 7A-450.1, 7A-450.2, and 7A-450.3. In no event shall the parent or guardian be required to pay the fees for a court-appointed attorney or guardian ad litem in an abuse, neglect, or dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or dependent, or, in a proceeding to terminate parental rights, unless the parent's rights have been terminated. A person who does not comply with the court's order of payment may be punished for contempt as provided in G.S. 5A-21."

Section 18. G.S. 7B-1101 reads as rewritten:

"*§ 7B-1101. Jurisdiction.*

The court shall have exclusive original jurisdiction to hear and determine any petition relating to termination of parental rights to any juvenile who resides in, is found in, or is in the legal or actual custody of a county department of social services or licensed child-placing agency in the district at the time of filing of the petition. The court shall have jurisdiction to terminate the parental rights of any parent irrespective of the age of the parent. The parent has the right to counsel and to appointed counsel in cases of indigency unless the parent waives the right. The fees of appointed counsel shall be borne by the ~~Administrative Office of the Courts.~~ Office of Indigent Defense Services. In addition to the right to appointed counsel set forth above, a guardian ad litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to represent a parent in the following cases:

(1) Where it is alleged that a parent's rights should be terminated pursuant to G.S. 7B-1111(6); or

(2) Where the parent is under the age of 18 years.

The fees of the guardian ad litem shall be borne by the ~~Administrative Office of the Courts~~ Office of Indigent Defense Services when the court finds that the respondent is indigent. In other cases the fees of the court-appointed guardian ad litem shall be a proper charge against the respondent if the respondent does not secure private legal counsel. Provided, that before exercising jurisdiction under this Article, the court shall find that it would have jurisdiction to make a child-custody determination under the provisions of G.S. 50A-201, 50A-203, or 50A-204. Provided, further, that the clerk of superior court shall have jurisdiction for adoptions under the provisions of G.S. 48-2-100 and Chapter 48 of the General Statutes generally."

Section 19. G.S. 7B-1109(b) reads as rewritten:

"(b) The court shall inquire whether the juvenile's parents are present at the hearing and, if so, whether they are represented by counsel. If the parents are not represented by counsel, the court shall inquire whether the parents desire counsel but are indigent. In the event that the parents desire counsel but are indigent as defined in G.S. 7A-450(a) and are unable to obtain counsel to represent them, ~~the court shall appoint~~ counsel shall be appointed to represent ~~them.~~ them in accordance with rules adopted by the Office of Indigent Defense Services. The court shall grant the parents such an extension of time as is reasonable to permit their appointed counsel to prepare their defense to the termination petition. In the event that the parents do not desire counsel and are present at the hearing, the court shall examine each parent and make findings of fact sufficient to show that the waivers were knowing and voluntary. This examination shall be reported as provided in G.S. 7A-198."

Section 20. G.S. 7B-1808(b) reads as rewritten:

"(b) At the first appearance, the court shall:

(1) Inform the juvenile of the allegations set forth in the petition;

(2) Determine whether the juvenile has retained counsel or has been assigned counsel ~~and, if the juvenile is not represented by counsel, appoint counsel for the juvenile;~~ counsel;

(3) If applicable, inform the juvenile of the date of the probable cause hearing, which shall be within 15 days of the first appearance; and

(4) Inform the parent, guardian, or custodian that the parent, guardian, or custodian is required to attend all hearings scheduled in the matter and may be held in contempt of court for failure to attend any scheduled hearing.

If the juvenile is not represented by counsel, counsel for the juvenile shall be appointed in accordance with rules adopted by the Office of Indigent Services."

Section 21. G.S. 7B-1906(c) reads as rewritten:

"(c) The court shall determine whether a juvenile who is alleged to be delinquent has retained counsel or has been assigned counsel; ~~and,~~ if the juvenile is not represented by counsel, ~~appoint~~ counsel for the ~~juvenile.~~ juvenile shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services."

Section 22. G.S. 7B-2000(a) reads as rewritten:

"(a) A juvenile alleged to be within the jurisdiction of the court has the right to be represented by counsel in all proceedings. ~~The court shall appoint counsel for the juvenile,~~ Counsel for the juvenile shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services, unless counsel is retained for the juvenile, in any proceeding in which the juvenile is alleged to be (i) delinquent or (ii) in contempt of court when alleged or adjudicated to be undisciplined."

Section 23. G.S. 7B-2002 reads as rewritten:

"*§ 7B-2002. Payment of court-appointed attorney.*

An attorney appointed pursuant to G.S. 7B-2000 or pursuant to any other provision of this Subchapter shall be paid a reasonable fee ~~fixed by the court in the same manner as fees for attorneys appointed in cases of indigency through the Administrative Office of the Courts.~~ in accordance with rules adopted by the Office of Indigent Defense Services. The court may require payment of the attorneys' fees from a person other than the juvenile as provided in G.S. 7A-450.1, 7A-450.2, and 7A-450.3. A person who does not comply with the court's order of payment may be found in civil contempt as provided in G.S. 5A-21."

Section 24. G.S. 7B-2704 reads as rewritten:

"*§ 7B-2704. Payment of support or other expenses; assignment of insurance coverage.*

At the dispositional hearing or a subsequent hearing, if the court finds that the parent is able to do so, the court may order the parent to:

(1) Pay a reasonable sum that will cover in whole or in part the support of the juvenile. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4;
(2) Pay a fee for probation supervision or residential facility costs;
(3) Assign private insurance coverage to cover medical costs while the juvenile is in secure detention, training school, or other out-of-home placement; and
(4) Pay ~~court-appointed~~ appointed attorneys' fees.

All money paid by a parent pursuant to this section shall be paid into the office of the clerk of superior court.

If the court places a juvenile in the custody of a county department of social services and if the court finds that the parent is unable to pay the cost of the support required by the juvenile, the cost shall be paid by the county department of social services in whose custody the juvenile is placed, provided the juvenile is not receiving care in an institution owned or operated by the State or federal government or any subdivision thereof."

Section 25. G.S. 7B-2804(a) reads as rewritten:

"(a) The parent, guardian, person, or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of the parent, guardian, person, or agency may petition the appropriate court in the demanding state for the issuance of a requisition for the juvenile's return. The petition shall state the name and age of the juvenile, the name of the petitioner, and the basis of entitlement to the juvenile's custody, the circumstances of the running away, the juvenile's location if known at the time application is made, and any other facts that may tend to show that the juvenile who has run away is endangering the juvenile's own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the

document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Any further affidavits and other documents as may be deemed proper may be submitted with the petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this Compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not the juvenile is an emancipated minor, and whether or not it is in the best interests of the juvenile to compel the juvenile's return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, the judge shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of the juvenile. The requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person, or agency entitled to legal custody, and that it is in the best interests and for the protection of the juvenile that the juvenile be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected, or dependent juvenile is pending in the court at the time when the juvenile runs away, the court may issue a requisition for the return of the juvenile upon its own motion, regardless of the consent of the parent, guardian, person, or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the Compact Administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing that person to take into custody and detain the juvenile. The detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon the order shall be delivered over to the officer whom the court has appointed to receive the juvenile unless the juvenile first is taken before a judge of a court in the state, who shall inform the juvenile of the demand made for the juvenile's return, and who may ~~appoint~~ determine that counsel or guardian ad litem for the ~~juvenile.~~ juvenile should be appointed. If the court finds that the requisition is in order, the court shall deliver the juvenile over to the officer appointed to receive the juvenile by the court demanding the juvenile. The court, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this Compact without the consent of a parent, guardian, person, or agency entitled to legal custody, the

juvenile may be taken into custody without a requisition and brought before a judge of the appropriate court who may ~~appoint~~ determine that counsel or guardian ad litem for the juvenile should be appointed and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for the juvenile's own protection and welfare, for such a time not exceeding 90 days as will enable the return of the juvenile to another state party to this Compact pursuant to a requisition for return from a court of that state. In cases in which the court determines that counsel or guardian ad litem should be provided for the juvenile, appointment shall be in accordance with rules adopted by the Office of Indigent Defense Services. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein the juvenile is found, any criminal charge, or any proceeding to have the juvenile adjudicated a delinquent juvenile for an act committed in the state, or if the juvenile is suspected of having committed within the state a criminal offense or an act of juvenile delinquency, the juvenile shall not be returned without the consent of the state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for the offense or juvenile delinquency. The duly accredited officers of any state party to this Compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport the juvenile through any and all states party to this Compact, without interference. Upon return of the juvenile to the state from which the juvenile ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state."

Section 26. G.S. 7B-2805 reads as rewritten:

"§ *7B-2805. Return of escapees and absconders.*

(a) The appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody a delinquent juvenile has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of the delinquent juvenile. The requisition shall state the name and age of the delinquent juvenile, the particulars of the juvenile's adjudication as a delinquent juvenile, the circumstances of the breach of the terms of probation or parole or of the juvenile's escape from an institution or agency vested with legal custody or supervision, and the location of the delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects the delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Any further affidavits and documents as may be deemed proper may be submitted with the requisition. One copy of the requisition shall be filed with the Compact Administrator of the demanding state, there to remain on file subject to the provisions of the law governing records

of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing the person to take into custody and detain such delinquent juvenile. The detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon the order shall be delivered over to the officer whom the appropriate person or authority demanding the juvenile has appointed to receive the juvenile, unless the juvenile is first taken forthwith before a judge of an appropriate court in the state, who shall inform the juvenile of the demand made for the return, and who may ~~appoint~~ determine that counsel or guardian ad litem for the ~~juvenile.~~ juvenile should be appointed. If the judge of the court finds that the requisition is in order, the judge shall deliver the delinquent juvenile over to the officer whom the appropriate person or authority demanding the juvenile appointed to receive the juvenile. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with legal custody or supervision in any state party to this Compact, the person may be taken into custody in any other state party to this Compact without a requisition. But in that event, the juvenile shall be taken forthwith before a judge of the appropriate court, who may ~~appoint~~ determine that counsel or guardian ad litem for the person should be appointed and who shall determine after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for a length of time, not exceeding 90 days, as will enable detention of the juvenile under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent who has either absconded while on probation or parole or escaped from an institution or agency vested with legal custody or supervision, there is pending in the state wherein the juvenile is detained any criminal charge or any proceeding to have the juvenile adjudicated a delinquent juvenile for an act committed in the state, or if the juvenile is suspected of having committed a criminal offense or an act of juvenile delinquency within the state, the juvenile shall not be returned without the consent of the state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for the offense or juvenile delinquency. The duly accredited officers of any state party to this Compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport the delinquent juvenile through any and all states party to this Compact, without interference. Upon return to the state from which the juvenile escaped or absconded, the delinquent juvenile shall be subject to any further proceedings appropriate under the laws of that state.

(b) The state to which a delinquent juvenile is returned under this Article shall be responsible for the payment of transportation costs of the return.

(c) If the court determines that counsel or guardian ad litem should be provided under this section, appointment shall be in accordance with rules adopted by the Office of Indigent Defense Services."

Section 27. G.S. 15-11.1(b) reads as rewritten:

"(b) In the case of unknown or unapprehended defendants or of defendants willfully absent from the jurisdiction, the court shall ~~have discretion to appoint a guardian ad litem, who shall be a licensed attorney,~~ determine whether an attorney should be appointed as guardian ad litem to represent and protect the interest of such unknown or absent defendants. Appointment shall be in accordance with rules adopted by the Office of Indigent Defense Services. The judicial findings concerning identification or value that are made at such hearing whereby property is returned to the lawful owner or a person, firm, or corporation entitled to possession, may be admissible into evidence at the trial. After final judgment all property lawfully seized by or otherwise coming into the possession of law-enforcement authorities shall be disposed of as the court or magistrate in its discretion orders, and may be forfeited and either sold or destroyed in accordance with due process of law."

Section 28. G.S. 15A-279(d) reads as rewritten:

"(d) Any such person is entitled to have counsel present and must be advised prior to being subjected to any nontestimonial identification procedures of his right to have counsel present during any nontestimonial identification procedure and to the appointment of counsel if he cannot afford to retain counsel. Appointment of counsel shall be in accordance with rules adopted by the Office of Indigent Defense Services. No statement made during nontestimonial identification procedures by the subject of the procedures shall be admissible in any criminal proceeding against him, unless his counsel was present at the time the statement was made."

Section 29. G.S. 15A-803(d) reads as rewritten:

"(d) Procedure. -- A material witness order may be obtained upon motion supported by affidavit showing cause for its issuance. The witness must be given reasonable notice, opportunity to be heard and present evidence, and the right of representation by counsel at a hearing on the motion. Counsel for a material witness may be appointed and compensated in the same manner as counsel for an indigent defendant. Appointment of counsel shall be in accordance with rules adopted by the Office of Indigent Defense Services. The order must be based on findings of fact supporting its issuance."

Section 30. G.S. 15A-1243 reads as rewritten:

"*§ 15A-1243. Standby counsel for defendant representing himself.*

When a defendant has elected to proceed without the assistance of counsel, the trial judge in his discretion may ~~appoint~~ determine that standby counsel should be appointed to assist the defendant when called upon and to bring to the judge's attention matters favorable to

the defendant upon which the judge should rule upon his own motion. Appointment and compensation of standby counsel shall be in accordance with rules adopted by the Office of Indigent Defense Services."

Section 31. G.S. 15A-1343(e) reads as rewritten:

"(e) Costs of Court and Appointed Counsel. -- Unless the court finds there are extenuating circumstances, any person placed upon supervised or unsupervised probation under the terms set forth by the court shall, as a condition of probation, be required to pay all court costs and costs for appointed counsel or public defender in the case in which he was convicted. The cost of appointed counsel or public defender services shall be determined in accordance with rules adopted by the Office of Indigent Defense Services. The court shall determine the amount ~~due~~ of those costs to be repaid and the method of payment."

Section 32. G.S. 23-30.1 reads as rewritten:

"*§ 23-30.1. Provisional release.*

Every person who has filed a petition under the provisions of G.S. 23-30 shall be brought before a judge within 72 hours after filing the petition and shall be provisionally released from imprisonment unless a hearing shall be held and the creditor shall establish that the prisoner has fraudulently concealed assets. If, at the time he is brought before a judge, the prisoner makes a showing of indigency, ~~the judge shall appoint~~ counsel shall be appointed for ~~him.~~ the prisoner in accordance with rules adopted by the Office of Indigent Defense Services. A provisional release under this section shall not constitute a discharge of the debtor, and the creditor may oppose the discharge by suggesting fraud even if he has unsuccessfully attempted to oppose the provisional release on the basis of fraudulent concealment. The debtor may be provisionally released even though actual service upon the creditor has not been accomplished if 72 hours has passed since the debtor delivered the notice to the sheriff for service upon the creditor."

Section 33. G.S. 35A-1107 reads as rewritten:

"*§ 35A-1107. Right to counsel or guardian ad litem.*

The respondent is entitled to be represented by counsel of his own choice or by ~~court-appointed~~ an appointed guardian ad litem. Upon filing of the ~~petition, the clerk shall appoint as guardian ad litem an attorney who shall~~ petition, an attorney shall be appointed as guardian ad litem to represent the respondent unless the respondent retains his own counsel, in which event ~~the clerk may discharge~~ the guardian ad ~~litem.~~ litem may be discharged. Appointment and discharge of an appointed guardian ad litem shall be in accordance with rules adopted by the Office of Indigent Defense Services."

Section 34. G.S. 35A-1130(c) reads as rewritten:

"(c) At the hearing on the motion, the ward shall be entitled to be represented by counsel or guardian ad litem, and ~~the clerk shall appoint~~ a guardian ad litem shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services if the ward is

indigent and not represented by counsel. Upon motion of any party or the clerk's own motion, the clerk may order a multidisciplinary evaluation. The ward has a right, upon request by him, his counsel, or his guardian ad litem to trial by jury. Failure to request a trial by jury shall constitute a waiver of the right. The clerk may nevertheless require trial by jury in accordance with G.S. 1A-1, Rule 39(b), Rules of Civil Procedure, by entering an order for trial by jury on his own motion. Provided, if there is a jury in a proceeding for restoration to competency, it shall be a jury of six persons selected in accordance with the provisions of Chapter 9 of the General Statutes."

Section 35. G.S. 90-21.8(c) reads as rewritten:

"(c) The minor may participate in proceedings in the court on her own behalf or through a guardian ad litem. The court shall advise her that she has a right to ~~court~~ appointed ~~counsel~~ counsel, and ~~shall provide her with~~ counsel shall be provided upon her ~~request.~~ request in accordance with rules adopted by the Office of Indigent Defense Services."

Section 36. G.S. 108A-105(b) reads as rewritten:

"(b) The court shall set the case for hearing within 14 days after the filing of the petition. The disabled adult must receive at least five days' notice of the hearing. He has the right to be present and represented by counsel at the hearing. If the person, in the determination of the judge, lacks the capacity to waive the right to counsel, then ~~the court shall appoint~~ a guardian ad litem shall be appointed pursuant to G.S. 1A-1, ~~Rule 17.~~ Rule 17, and rules adopted by the Office of Indigent Defense Services. If the person is indigent, the cost of representation shall be borne by the State."

Section 37. G.S. 122C-224.1(a) reads as rewritten:

"(a) Within 48 hours of receipt of notice that a minor has been admitted to a 24-hour facility wherein his freedom of movement will be restricted, ~~the clerk of superior court, under direction of the district court judge,~~ an attorney shall ~~appoint an attorney~~ be appointed for the ~~minor.~~ minor in accordance with rules adopted by the Office of Indigent Defense Services. When a minor has been admitted to a State facility for the mentally ill, the attorney appointed shall be the attorney employed in accordance with G.S. 122C-270(a) through (c). All minors shall be conclusively presumed to be indigent, and it shall not be necessary for the court to receive from any minor an affidavit of indigency. The attorney shall be paid a reasonable fee ~~fixed by the court in the same manner as fees for attorneys appointed in cases of indigency,~~ in accordance with rules adopted by the Office of Indigent Defense Services. The judge may require payment of the attorney's fee from a person other than the minor as provided in G.S. 7A-450.1 through G.S. 7A-450.4."

Section 38. G.S. 122C-267(d) reads as rewritten:

"(d) At the hearing to determine the necessity and appropriateness of outpatient commitment, the respondent need not, but may, be represented by counsel. However, if the court determines that the legal or factual issues raised are of such complexity that the assistance

of counsel is necessary for an adequate presentation of the merits or that the respondent is unable to speak for himself, the court may continue the case for not more than five days and order the appointment of counsel for an indigent respondent. Appointment of counsel shall be in accordance with rules adopted by the Office of Indigent Defense Services."

Section 39. G.S. 122C-268(d) reads as rewritten:

"(d) The respondent shall be represented by counsel of his choice; or if he is indigent within the meaning of G.S. 7A-450 or refuses to retain counsel if financially able to do so, he shall be represented by counsel appointed ~~by the court.~~ in accordance with rules adopted by the Office of Indigent Defense Services."

Section 40. G.S. 122C-268.1(d) reads as rewritten:

"(d) The respondent shall be represented by counsel of his choice, or if he is indigent within the meaning of G.S. 7A-450 or refuses to retain counsel if financially able to do so, he shall be represented by counsel appointed ~~by the court.~~ in accordance with rules adopted by the Office of Indigent Defense Services."

Section 41. G.S. 122C-269(b) reads as rewritten:

"(b) An official of the facility shall immediately notify the clerk of superior court of the county in which the facility is located of a determination to hold the respondent pending hearing. That clerk shall request transmittal of all documents pertinent to the proceedings from the clerk of superior court where the proceedings were initiated. The requesting clerk shall assume all duties set forth in G.S. 122C-264. The ~~requesting clerk shall appoint as~~ counsel for indigent respondents the counsel provided for in ~~G.S. 122C-268(d).~~ G.S. 122C-268(d) shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services."

Section 42. G.S. 122C-270 reads as rewritten:

"§ *122C-270. Attorneys to represent the respondent and the State.*

(a) ~~The senior regular resident superior court judge of~~ In a superior court district or set of districts as defined in G.S. 7A-41.1 in which a State facility for the mentally ill is ~~located~~ located, the Commission on Indigent Defense Services shall appoint an attorney licensed to practice in North Carolina as special counsel for indigent respondents who are mentally ill. ~~This~~ These special counsel shall serve at the pleasure of the ~~appointing judge,~~ Commission, may not privately practice law, and shall receive annual compensation within the salary range for assistant ~~district attorneys~~ public defenders as fixed by the ~~Administrative Officer of the Courts.~~ Office of Indigent Defense Services. The special counsel shall represent all indigent respondents at all hearings, rehearings, and supplemental hearings held at the State facility and on appeals held under this Article. Special counsel shall determine indigency in accordance with G.S. 7A-450(a). Indigency is subject to redetermination by the presiding judge.

(b) The State facility shall provide suitable office space for the counsel to meet privately with respondents. The ~~Administrative Office of the Courts~~ Office of Indigent Defense Services shall provide

secretarial and clerical service and necessary equipment and supplies for the office.

(c) In the event of a vacancy in the office of special counsel, counsel's incapacity, or a conflict of interest, counsel for indigents at hearings or rehearings may be assigned ~~by a district judge of the district.~~ in accordance with rules adopted by the Office of Indigent Defense Services. No mileage or compensation for travel time is paid to a counsel appointed pursuant to this subsection. Counsel may also be so assigned when, in the opinion of the ~~Administrative Officer of the Courts,~~ Director of the Office of Indigent Defense Services, the volume of cases warrants.

(d) At hearings held in counties other than those designated in subsection (a) of this section, ~~a district court judge shall appoint~~ counsel for indigent respondents ~~from members of the bar of the county in accordance with G.S. 122C-268(d).~~ shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services.

(e) Counsel assigned to represent an indigent respondent at the initial district court hearing is also responsible for perfecting and concluding an appeal, if there is one. Upon completion of an appeal, or upon transfer of the respondent to a State facility for the mentally ill, if there is no appeal, assigned counsel is discharged. If the respondent is committed to a non-State 24-hour facility, assigned counsel remains responsible for his representation until discharged by order of district court, until the respondent is unconditionally discharged from the facility, or until the respondent voluntarily admits himself to the facility.

(f) The Attorney General may employ four attorneys, one to be assigned by him full-time to each of the State facilities for the mentally ill, to represent the State's interest at commitment hearings, rehearings and supplemental hearings held under this Article at the State facilities for respondents admitted to those facilities pursuant to Part 3, 4, 7, or 8 of this Article or G.S. 15A-1321 and to provide liaison and consultation services concerning these matters. These attorneys are subject to Chapter 126 of the General Statutes and shall also perform additional duties as may be assigned by the Attorney General. The attorney employed by the Attorney General in accordance with G.S. 114-4.2B shall represent the State's interest at commitment hearings, rehearings and supplemental hearings held for respondents admitted to the University of North Carolina Hospitals at Chapel Hill pursuant to Part 3, 4, 7, or 8 of this Article or G.S. 15A-1321."

Section 43. G.S. 122C-286(d) reads as rewritten:

"(d) The respondent may be represented by counsel of his choice. If the respondent is indigent within the meaning of G.S. 7A-450, ~~the court shall appoint~~ counsel shall be appointed to represent ~~him,~~ the respondent in accordance with rules adopted by the Office of Indigent Defense Services."

Section 44. G.S. 122C-286.1(b) reads as rewritten:

"(b) An official of the facility shall immediately notify the clerk of superior court of the county in which the facility is located of a determination to hold the respondent pending hearing. That clerk shall request transmittal of all documents pertinent to the proceedings from the clerk of superior court where the proceedings were initiated. The requesting clerk shall assume all duties set forth in G.S. 122C-284. The ~~requesting clerk shall appoint as counsel for indigent respondents the~~ counsel provided for in ~~G.S. 122C-286(d).~~ G.S. 122C-286(d) shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services."

Section 45. G.S. 148-62.1 reads as rewritten:

"*§ 148-62.1. Entitlement of indigent parolee and post-release supervisee to counsel, in discretion of Post-Release Supervision and Parole Commission.*

Any parolee or post-release supervisee who is an indigent under the terms of G.S. 7A-450(a) may be determined entitled, in the discretion of the Post-Release Supervision and Parole Commission, to the services of counsel at State expense at a parole revocation hearing at which either:

(1) The parolee or post-release supervisee claims not to have committed the alleged violation of the parole or post-release supervision conditions; or

(2) The parolee or post-release supervisee claims there are substantial reasons which justified or mitigated the violation and make revocation inappropriate, even if the violation is a matter of public record or is uncontested, and that the reasons are complex or otherwise difficult to develop or present; or

(3) The parolee or post-release supervisee is incapable of speaking effectively for himself;and where the Commission feels, on a case by case basis, that such appointment in accordance with either (1), (2) or (3) above is necessary for fundamental fairness.

If the parolee or post-release supervisee is determined to be indigent and entitled to services of counsel, counsel shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services."

PART IV. TRANSITION AND EFFECTIVE DATES

Section 46. The Director of the Administrative Office of the Courts shall assist the chair of the Commission on Indigent Defense Services in retaining the Commission's initial Director of Indigent Defense Services. The Director of the Administrative Office of the Courts shall recruit and interview prospective candidates and shall submit at least three names to the full Commission for its consideration. The Commission may hire its initial Director of Indigent Defense Services from that list or may request that the chair

of the Commission and Director of the Administrative Office of the Courts submit additional names.

Section 47. The Commission on Indigent Defense Services shall report on or before May 1, 2001, to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety regarding (i) a plan for the orderly transfer of budget and related authority from the Administrative Office of the Courts to the Commission on Indigent Defense Services, effective July 1, 2001; (ii) the rules, standards, and other regulations developed by the Commission for the delivery of indigent defense services; and (iii) other matters for implementation of the provisions of this act.

Section 48. Persons holding the position of public defender or appellate defender on the date this act becomes law are entitled to serve the remainder of their terms.

Section 49. Except as otherwise provided in this Part, this act becomes effective July 1, 2001. G.S. 7A-498, 7A-498.1, 7A-498.2, 7A-498.4, 7A-498.5, and 7A-498.6, as enacted in Section 1 of this act, are effective when they become law; however, except as otherwise provided in this Part, no rules, standards, or other regulations issued by the Commission on Indigent Defense Services, and no decisions regarding the actual delivery of services shall take effect prior to July 1, 2001, and all authority over the expenditure of funds shall remain with the Director of the Administrative Office of the Courts prior to that date. The Commission shall be responsible for the expenditure of funds for all cases pending on or after July 1, 2001.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 9:15 a.m. on the 2nd day of August, 2000.

H.B. 1630 **SESSION LAW 2000-145**

AN ACT TO AUTHORIZE CONSTRUCTION OF PILOT PRIVATELY FUNDED ROAD OR BRIDGE PROJECTS FUNDED BY TOLLS AND TO DIRECT THE DEPARTMENT OF TRANSPORTATION TO STUDY THE FEASIBILITY OF STATE-OWNED AND STATE-OPERATED TOLL ROADS OR BRIDGES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is amended by adding a new Article 6G to read:

"ARTICLE 6G.

"Private Pilot Toll Project.

"*§ 136-89.168. Legislative findings.*

It is hereby declared that the existing State road system is becoming increasingly congested and overburdened with traffic in many areas of the State; that the sharp surge of vehicle miles traveled is

overwhelming the State's ability to build and pay for adequate road improvements; and that an adequate answer to this challenge will require the State to be innovative and utilize several new approaches to transportation improvements in North Carolina. It is the purpose of this Article to authorize the construction of no more than two private toll road projects as pilots. In doing this, the Department of Transportation is directed to focus on using toll roads to alleviate commuter traffic congestion. It is the intent that there be no toll on existing State roads.

"*§ 136-89.169. Private Pilot Toll Project.*

(a) Authority to License. -- The Department of Transportation is authorized to issue a license to an applicant to finance, design, construct, maintain, improve, own, or operate solely from private resources one pilot toll transportation project within the State of North Carolina. Any license authorized by this section must be issued on or before July 1, 2003.

(b) Requirement for Finding of Need. -- Prior to the issuance of any license under this section, the Department shall make a written determination that the proposed project is in the public interest.

(c) Submission of Financial Data. -- A person applying for a license to construct a project under this section shall submit detailed financial data to the Department concerning the ability of applicant to finance the proposed project. The Department shall independently analyze the data submitted for each project proposal.

(d) License Period. -- A license issued under this section shall not exceed 50 years from beginning of the operations of the road or bridge. A license may be renewed for an additional 50-year term at the discretion of the Department and in conformity with this Article.

(e) State Use for Other Purposes. -- A license issued pursuant to this section shall reserve unto the State or its designee the authority to enter and utilize the project right-of-way for other transportation or utility-related purposes, as long as those purposes do not interfere with the use by the licensee.

(f) Terms of License. -- Additional terms and conditions of any license issued pursuant to this section shall be within the discretion of the Department of Transportation, and shall include, in addition to any other requirements:

(1) Provisions establishing minimum design and construction standards for the project.

(2) Provisions establishing minimum maintenance standards for the project and the responsibility for such maintenance.

(3) Provisions requiring that appropriate traffic signs and other traffic control devices be erected and maintained on the project.

(4) Provisions establishing the rights and duties of the parties regarding infrastructure improvements and connections between the project and the State highway system.

(5) Provisions regarding any type of access control, if any, that may be required for the project.

(6) Provisions establishing the relative responsibilities of the licensee and the Department of Transportation to keep the completed project open and accessible to the public.

(7) Provisions requiring that the State of North Carolina, its agencies, officials, and employees be indemnified and held harmless by the licensee for any liability incurred on the project in connection with project construction, maintenance, or operation.

(8) Provisions concerning location of the project.

(g) Department Powers. -- The Department may exercise any power possessed by it with respect to the development and construction of State transportation projects to facilitate the development and construction of transportation projects pursuant to this Article.

(h) Acquisition of Project Property. -- A person licensed to construct a project under this section shall make all reasonable efforts to acquire all right-of-way interests required for the project through private negotiation. The Department is authorized to exercise its power of eminent domain to acquire property rights necessary for construction and maintenance of the project only as to those property interests that cannot be acquired by the licensee at a reasonable price through private negotiation, and only as required to control access to the project. A licensee requesting that the Department exercise its power of eminent domain shall be required to reimburse the Department in the full amount of its costs incurred in acquiring the necessary property interests for the private portion of the project, including any negotiated settlement or jury verdict, and any attorneys' fees that may be awarded. The acquisition of property interests necessary for inclusion in a project licensed under this section is hereby declared to be for a public transportation purpose.

(i) Transfer of Department Property to Licensee. -- Notwithstanding the provisions of G.S. 136-19, should the Department determine that a licensed project require property interests held by the Department, such interests as the Department determines to be necessary may be conveyed to the licensee for fair market value.

(j) Applicability of Other Laws. -- For the purpose of entering into contractual licensing agreements under this section, the Department of Transportation is exempted from any provision of the General Statutes that conflicts with the purposes of this section, specifically including G.S. 136-28.1 and G.S. 143-52. A project licensed under this section shall not be included in the distribution formula under G.S. 136-17.2A but shall require approval of the Board of Transportation under G.S. 143B-350(f)(4). A licensee under this section shall endeavor to comply with the provisions of G.S. 136-28.4 concerning participation by disadvantaged businesses.

(k) Applicability of Motor Vehicle Laws. -- Any project licensed by the Department of Transportation under the authority granted in this section shall be considered a 'highway' as defined in G.S. 20-4.01(13) and a 'public vehicular area' as defined in G.S. 20-4.01(32). All law enforcement and emergency personnel, including the State

Highway Patrol and the Division of Motor Vehicles, shall have the same powers and duties on such projects as on any other highway or public vehicular area.

(l) Exclusive License. -- Upon the issuance of a license by the Department of Transportation, no further license of any type may be required by the State or local government body for the ownership, construction, or operation of the project.

(m) Definitions. -- The following definitions apply as used in this section:

(1) 'Person' means any natural person, partnership, corporation, trust, association, sole proprietorship, or any other legal entity other than the State or its agencies, institutions, or political subdivisions.

(2) 'Project' means a privately constructed, maintained, and operated toll highway, road, bridge, or other transportation-related facility.

(3) 'Licensee' means a person authorized through a contractual agreement with the Department of Transportation to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a project.

(n) Report. -- The Department shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Transportation Appropriations Subcommittee by February 1, 2001, and every year thereafter, on any toll project planning, construction, or operation commenced pursuant to the provisions of this Article."

Section 2. The Department shall study the feasibility of construction of State-owned and State-operated toll roads and the areas where any State-owned and State-operated toll roads are proposed and report its findings to the Joint Legislative Transportation Oversight Committee and to the Joint Transportation Appropriations Subcommittee by February 1, 2001.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 9:16 a.m. on the 2nd day of August, 2000.

S.B. 1183 **SESSION LAW 2000-146**

AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE FUTURE OF THE NORTH CAROLINA RAILROAD STUDY COMMISSION.

Whereas, during the 1997 Session of the General Assembly the State provided funds to buy the stock of all of the private shareholders so that the railroad right-of-way could be preserved as a company asset for future economic growth; and

Whereas, the North Carolina Railroad Company is a private corporation with all of the voting stock owned by the State of North

Carolina and all of the members of the Board of Directors appointed by the Governor and the General Assembly; and

Whereas, as a private corporation the North Carolina Railroad Company is uniquely situated to respond to the needs of the State and to quickly and efficiently develop transportation and economic development improvements for the State; and

Whereas, certain statutory amendments are critically necessary for the North Carolina Railroad Company to fulfill its potential for the benefit of the State of North Carolina and its people; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 54 of Chapter 82 of the Laws of 1848-49, as added by Chapter 1046 of the 1951 Session Laws, and as amended by subsection (d) of Section 32.30 of S.L. 1997-443, reads as rewritten:

"No stock owned by the State of North Carolina in the North Carolina Railroad Company shall be sold or transferred except with the prior consent of the General Assembly, except as part of a transaction or series of transactions relating to (i) a plan of merger or consolidation of that company with another company, and where the State will be the owner of all of the voting stock in the merged or consolidated ~~corporation.~~ corporation; (ii) a transfer of the stock of that company to a corporation, limited liability company, or any other entity that is wholly owned by the State; or (iii) the reorganization of that company."

Section 2. G.S. 124-1 reads as rewritten:

"§ *124-1. ~~Governor and Council to control~~ Control of internal improvements.*

The Governor and Council of State shall have charge of all the State's interest in all railroads, canals and other works of internal improvements. The Board of Directors of a State-owned railroad company shall be responsible for managing its affairs and for reporting as set forth in G.S. 124-3."

Section 2.1. Section 7.2.(b) of S.L. 2000-67 is repealed.

Section 3. G.S. 124-3 reads as rewritten:

"§ *124-3. Report of railroad, canal, etc.; contents.*

(a) The president or other chief officer of every railroad, canal, or other public work of internal improvement in which the State owns an interest, shall, ~~when required to do so by the Governor,~~ report annually to the Joint Legislative Commission on Governmental Operations. ~~make or cause to be made to the Governor and Council of State a written report of its affairs.~~ This report shall ~~show:~~ include:

(1) Number of shares owned by the State.
(2) Number of shares owned otherwise.
(3) ~~Face~~ Par value of ~~such~~ the shares.
~~(4) Market value of each of such shares.~~
(5) Amount of bonded debt, and for what purpose contracted.
(6) Amount of other debt, and how incurred.

(7) If interest on bonded debt has been punctually paid as agreed; if not, how much in arrears.

(8) Amount of gross receipts for past year, and from what sources derived.

(9) An itemized account of expenditures for past year.

(10) ~~Any lease or sale of said property, or any part thereof, to whom made, for what consideration, and for what length of time.~~ A summary of all leases, sales, or acquisitions of real property to which the company has been a party since the last report.

(11) Suits at law pending against his company concerning its bonded debt, or in which title to all or any part of such road or canal is concerned.

(12) Any sales of stock owned by the State, by whose order made, and disposition of the proceeds.

(13) Annual financial statements, including notes, audited by an independent certified public accounting firm.

~~Any person failing to report as required by this section shall be guilty of a Class 1 misdemeanor.~~

(b) Upon the request of the Governor or any committee of the General Assembly, a State-owned railroad company shall provide all additional information and data within its possession or ascertainable from its records. The State-owned railroad company shall not be deemed to have waived any attorney-client privilege when complying with this subsection. At the time a State-owned railroad company provides information under this section, it shall indicate whether the information is confidential. Confidential information shall be subject to subsection (c) of this section.

(c) Confidential information includes (i) information related to a proposed specific business transaction where inspection, examination, or copying of the records would frustrate the purpose for which the records were created, or (ii) information that is subject to confidentiality obligations of a railroad company. Confidential information shall not be subject to a request under G.S. 132-6(a)."

Section 4. G.S. 124-4 is repealed.

Section 5. G.S. 124-5 reads as rewritten:

"*§ 124-5. Approval of encumbrance on State's interest in corporations.*

(a) No corporation or company in which the State owns the majority of any class of voting stock shall sell, lease, mortgage, or otherwise encumber its franchise, right-of-way, or other property, except by and with the approval and consent of the Governor and Council of State.

(b) No State-owned railroad company shall sell, lease, mortgage, or otherwise encumber its franchise, right-of-way, or other property, except by and with the approval and consent of the Board of Directors of that corporation. The president or other chief officer of the State-owned railroad company shall report any acquisitions and dispositions in accordance with G.S. 124-3(10)."

Section 6. G.S. 124-1 through G.S. 124-7 of Chapter 124 of the General Statutes, as amended by this act, are designated as Article 1 of that Chapter to be entitled "General Provisions."

Section 7. Chapter 124 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 2.

"State-Owned Railroad Company.

"*§ 124-11. Definition.*

As used in this Chapter, the term 'State-Owned Railroad Company' shall mean a railroad company in which the State owns all of the voting stock.

"*§ 124-12. Powers of a State-owned railroad company.*

A State-owned railroad company shall have, in addition to the powers of any railroad corporation, the power to:

(1) Lease, license, or improve property. -- A State-owned railroad company may lease, license, or improve its right-of-way and property, whether held by easement, presumptive grant, express grant, or otherwise, for the purpose of preserving and protecting its railroad corridor and franchise.

(2) Condemnation in fee simple. -- A State-owned railroad company may exercise the power of eminent domain to acquire property in fee simple for the purposes specified in G.S. 40A-3(a)(4). The procedures of Article 2 of Chapter 40A of the General Statutes shall apply to the exercise of the power of eminent domain under this subdivision.

"*§ 124-13. Effect on State-owned railroad company charter.*

Nothing in this Chapter repeals or modifies any State-owned railroad company charter or limits the rights of the shareholders of the company as provided in Chapter 55 of the General Statutes."

Section 8. G.S. 40A-3(a) is amended by adding a new subdivision to read:

"(a) Private Condemnors. -- For the public use or benefit, the persons or organizations listed below shall have the power of eminent domain and may acquire by purchase or condemnation property for the stated purposes and other works which are authorized by law.

. . .

(5) A condemnation in fee simple by a State-owned railroad company for the purposes specified in subdivision (4) of this subsection and as provided under G.S. 124-12(2)."

Section 9. G.S. 40A-5(a) reads as rewritten:

"(a) A condemnor listed in G.S. 40A-3(a), (b) or (c) shall not possess the power of eminent domain with respect to property owned by the State of North Carolina or a State-owned railroad as defined in G.S. 124-11 unless the State consents to the taking. The State's consent shall be given by the Council of State, or by the Secretary of Administration if the Council of State delegates this authority to ~~him.~~ the Secretary. In a condemnation proceeding against State property

consented to by the State, the only issue shall be the compensation to be paid for the property."

Section 10. Chapter 14 of the General Statutes is amended by adding a new section to read:

"*§ 14-280.1. Trespassing on railroad right-of-way.*

(a) Offense. -- A person commits the offense of trespassing on railroad right-of-way if the person enters and remains on the railroad right-of-way without the consent of the railroad company or the person operating the railroad or without authority granted pursuant to State or federal law.

(b) Crossings. -- Nothing in this section shall apply to a person crossing the railroad right-of-way at a public or private crossing.

(c) Legally Abandoned Rights-of-Way. -- This section shall not apply to any right-of-way that has been legally abandoned pursuant to an order of a federal or State agency having jurisdiction over the right-of-way and is not being used for railroad services.

(d) Classification. -- Trespassing on railroad right-of-way is a Class 3 misdemeanor."

Section 11. G.S. 97-13(a) reads as rewritten:

"(a) Employees of Certain Railroads. -- This Article shall not apply to railroads or railroad employees nor in any way repeal, amend, alter or affect Article 8 of Chapter 60 or any section thereof relating to the liability of railroads for injuries to employees, nor upon the trial of any action in tort for injuries not coming under the provisions of this Article, shall any provision herein be placed in evidence or be permitted to be argued to the jury. Provided, however, that the foregoing exemption to railroads and railroad employees shall not apply to employees of a State-owned railroad company, as defined in G.S. 124-11, or to electric street railroads or employees thereof; and this Article shall apply to electric street railroads and employees thereof and to this extent the provisions of Article 8 of Chapter 60 are hereby amended."

Section 12. Section 27.25.(c) of S.L. 1999-237 reads as rewritten:

"Section 27.25.(c) Duties of the Commission. -- The Commission shall study the following matters:

(1) ~~The appropriate purpose, powers, and governance of the North Carolina Railroad Company.~~ The importance of railroads and railroad infrastructure improvements to economic development in North Carolina, including improvements to short line railroads.

(2) Issues important to the future of passenger and freight rail service in North Carolina. The Commission's study of these and any other matters is not intended and shall not delay the North Carolina Railroad Company's contract negotiations with freight and passenger rail service operators including Research Triangle Regional Public Transportation Authority and Norfolk Southern Railway Company."

Section 13. Section 27.25.(k) of S.L. 1999-237 reads as rewritten:

"Section 27.25.(k) Report. -- The ~~commission~~ Commission shall submit ~~a final~~ an interim report to the General Assembly on or before May 1, 2000. The Commission shall submit a final report to the General Assembly by January 15, 2001. Upon filing of the final report, the Commission shall terminate."

Section 14. Sections 12, 13, and 14 of this act are effective on and after July 1, 1999. Sections 2.1 and 3 of this act are effective on and after July 1, 2000. Section 10 of this act becomes effective December 1, 2000, and applies to offenses occurring on or after that date. The remainder of this act becomes effective December 1, 2000.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law upon approval of the Governor at 9:17 a.m. on the 2nd day of August, 2000.

H.B. 1431 **SESSION LAW 2000-147**

AN ACT TO PROVIDE FOR THE CREATION OF THE HEALTH AND WELLNESS TRUST FUND AND ITS COMMISSION, THE CREATION OF THE TOBACCO TRUST FUND AND ITS COMMISSION, AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

PART I. ALLOCATION OF FUNDS

Section 1. G.S. 143-16.4 reads as rewritten:

"*§ 143-16.4. Settlement Reserve Fund.*

(a) The 'Settlement Reserve Fund' is established as a restricted reserve in the General Fund. ~~Funds~~ Except as otherwise provided in this section, funds shall be expended from the Settlement Reserve Fund only by specific appropriation by the General Assembly.

(a1) A Health Trust Account is established in the Settlement Reserve Fund. The portion of each Master Settlement Agreement payment identified in Section 6(3) of S.L. 1999-2 shall be credited to the Health Trust Account. The State Controller shall transfer all funds in the Health Trust Account to the Health and Wellness Trust Fund created in Article 6C of Chapter 147 of the General Statutes.

(a2) A Tobacco Trust Account is established in the Settlement Reserve Fund. The portion of each Master Settlement Agreement payment identified in Section 6(2) of S.L. 1999-2 shall be credited to the Tobacco Trust Account. The State Controller shall transfer all funds in the Tobacco Trust Account to the Tobacco Trust Fund created in Article 75 of Chapter 143 of the General Statutes.

(b) Unless prohibited by federal law, federal funds provided to the State by block grant or otherwise as part of federal legislation implementing a settlement between United States tobacco companies and the states shall be credited to the Settlement Reserve Fund. Unless otherwise encumbered or distributed under a settlement

agreement or final order or judgment of the court, funds paid to the State or a State agency pursuant to a tobacco litigation settlement agreement, or a final order or judgment of a court in litigation between tobacco companies and the states, shall be credited to the Settlement Reserve Fund."

PART II. HEALTH AND WELLNESS TRUST FUND AND HEALTH AND WELLNESS COMMISSION

Section 2. Chapter 147 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 6C.

"Health and Wellness Trust Fund.

"§ *147-86.30. Health and Wellness Trust Fund established.*

(a) Fund Established. -- There is established the Health and Wellness Trust Fund in the Office of the State Treasurer that shall be used to develop a comprehensive plan to finance programs and initiatives to improve the health and wellness of the people of North Carolina. As used in this Article, the term 'Fund' means the Health and Wellness Trust Fund. It is the intent of the General Assembly that the funds provided pursuant to this Article to address the health needs of North Carolinians be used to supplement, not supplant, existing funding of health and wellness programs.

(b) Fund Earnings, Assets, and Balances. -- The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to directives of the Commission. The Commission may expend moneys in the Fund only as provided in subsections (c) and (d) of this section.

(c) Creation of Fund Reserve. -- The Commission shall reserve, and shall not expend, fifty percent (50%) of each annual payment allocated to the Health and Wellness Trust Fund pursuant to G.S. 143-16.4 during years 2001 through 2025 to create and build the Fund Reserve. During years 2001 through 2025, the Commission may expend any investment earnings on the reserved funds. Beginning in year 2026, and thereafter, the Commission shall not expend the reserved funds but may continue to expend any investment earnings on the reserved funds.

(d) Use of Nonreserved Funds. -- The Commission may expend all of the annual payments for years 1998, 1999, and 2000 and may expend the remaining fifty percent (50%) portion of each annual payment thereafter through the year 2025 that is not reserved pursuant to subsection (c) of this section. Any unexpended or unencumbered portion of the nonreserved portion of each annual payment for years 2001 through 2025 that has not been expended or encumbered by the

third June 30th following the date of the receipt of the payment shall be reserved pursuant to subsection (c) of this section. The Commission may expend any investment earnings on the nonreserved funds in the year in which the investment earnings are received by the Fund.

(e) Fund Purposes. -- Moneys from the Fund may be used for any of the following purposes:

(1) To address the health needs of vulnerable and underserved populations in North Carolina.

(2) To fund programs and initiatives that include research, education, prevention, and treatment of health problems in North Carolina and to increase the capacity of communities to respond to the public's health needs.

(3) To develop a comprehensive, community-based plan with goals and objectives to improve the health and wellness of the people of North Carolina with a priority on preventing, reducing, and remedying the health effects of tobacco use and with an emphasis on reducing youth tobacco use. The plan shall include measurable health and wellness objectives and a proposed timetable for achieving these objectives. In developing the plan, the Commission shall consider all facets of health, including prevention, education, treatment, research, and related areas.

(f) Limit on Operating and Administrative Expenses. -- No more than two and one-half percent (2 1/2%) of the annual receipts of the Fund for the fiscal year beginning July 1 or a total sum of one million dollars ($1,000,000), whichever is less, may be used each fiscal year for administrative and operating expenses of the Commission and its staff. All administrative expenses of the Commission shall be paid from the Fund.

"§ 147-86.31. Health and Wellness Trust Fund; eligibility for grants; annual reports from non-State agencies.

(a) Eligible Grant Applicants. -- Any of the following are eligible to apply for a grant from the Fund:

(1) A State agency.

(2) A local government or other political subdivision of the State or a combination of such entities.

(3) A nonprofit corporation which has as a significant purpose promoting the public's health, limiting youth access to tobacco products, or reducing the health consequences of tobacco use.

(b) Annual Report From Non-State Agencies. -- Grant or financial assistance recipients that are non-State agencies shall submit an annual report to the Commission. The report shall include information concerning how the funds are used, the intended goals and objectives of the recipient's grant proposal or program initiative, and the results of an evaluation of the extent to which the outcomes of the initiatives or proposal achieved those goals and objectives.

"§ 147-86.32. Health and Wellness Trust Fund; Commission established; membership qualifications; vacancies.

(a) Commission Established. -- There is established the Health and Wellness Trust Fund Commission. As used in this Article, the term 'Commission' means the Health and Wellness Trust Fund Commission. The Commission shall exercise its powers independently, but for administrative purposes, the Commission shall be located within the Office of the State Treasurer.

(b) Membership. -- The Commission shall consist of 18 members. The members shall not be employed by or be agents of tobacco product manufacturing companies. The Commission shall be appointed as follows: six members by the Governor, six members by the President Pro Tempore of the Senate, and six members by the Speaker of the House of Representatives. These members shall be appointed as follows:

(1) The Governor shall make the following appointments:
  a. A person involved in public health.
  b. A person involved in the operation of health care delivery systems.
  c. A health care practitioner.
  d. An at-large appointee.
  e. An at-large appointee.
  f. An at-large appointee.

(2) The President Pro Tempore of the Senate shall make the following appointments:
  a. A person involved in health research.
  b. A person involved in tobacco-related health care issues.
  c. A person involved in health promotion and disease prevention.
  d. An at-large appointee.
  e. An at-large appointee.
  f. An at-large appointee.

(3) The Speaker of the House of Representatives shall make the following appointments:
  a. A person involved in health policy trends.
  b. A person involved with health care for underserved populations.
  c. A person involved with child health care.
  d. An at-large appointee.
  e. An at-large appointee.
  f. An at-large appointee.

It is the intent of the General Assembly that the appointing authorities, in appointing members, shall appoint members who represent the geographic, political, gender, and racial diversity of the State.

(c) Initial Appointments; Term Limits; Officers. -- To provide for a staggered membership, the members initially appointed pursuant to sub-subdivisions (b)(1)a., (1)b., (2)d., and (3)d. of this section shall serve one-year terms ending on June 30, 2001. The members

initially appointed pursuant to sub-subdivisions (b)(2)c., (2)e., (3)a., and (3)e. shall serve two-year terms ending on June 30, 2002. The members initially appointed pursuant to sub-subdivisions (b)(1)c., (1)d., (1)e., (2)b., and (3)c. shall serve three-year terms ending June 30, 2003. The remaining members initially appointed pursuant to subsection (b) of this section shall serve four-year terms ending June 30, 2004.

Except as provided for the initial members under this subsection, members shall serve four-year terms beginning July 1. No member may serve more than two full consecutive terms. Members may continue to serve beyond their terms until their successors are duly appointed, but any holdover shall not affect the expiration date of the succeeding term. A member may be removed from the Commission for cause by the authority that appointed the member.

The Commission shall elect from its membership a chair, vice-chair, and other officers as necessary for two-year terms beginning July 1 at the first meeting of the Commission held on or after July 1 of every even-numbered year. The vice-chair may act for the chair in the absence of the chair as authorized by the Commission.

(d) Vacancies. -- Vacancies shall be filled by the designated appointing authority for the remainder of the unexpired term.

(e) Frequency of Meetings. -- The Commission shall meet at least twice each year and may hold special meetings at the call of the chair or a majority of the voting members. The Governor shall call the initial meeting of the Commission.

(f) Quorum; Majority. -- Ten members shall constitute a quorum of the Commission. The Commission may act upon a majority vote of all the members of the Commission on matters involving the disbursement of funds and personnel matters properly before the Commission. On all other matters, the Commission may act by majority vote of the members of the Commission at a meeting at which a quorum is present.

(g) Meeting Facilities. -- The Office of the State Treasurer shall provide meeting facilities for the Commission and its staff as requested by the chair of the Commission.

(h) Per Diem and Expenses. -- The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per diem, subsistence, and travel expenses of the members shall be paid from the Fund.

(i) Conflict of Interest. -- The members of the Commission shall comply with the provisions of G.S. 14-234 prohibiting conflicts of interest. In addition to the restrictions imposed under G.S. 14-234, a member shall not vote on, participate in the deliberations of, or otherwise attempt through his or her official capacity to influence the vote on a grant or other financial assistance award by the Commission to a nonprofit entity of which the member is an officer, director, or employee or to a governmental entity of which the member is an

employee or a member of the governing board. A violation of this subsection is a Class 1 misdemeanor.

"*§ 147-86.33. Health and Wellness Trust Fund; powers and duties.*

(a) The Commission shall do the following:

(1) Allocate moneys from the Fund as grants. A grant may be awarded only for a program or initiative that satisfies the criteria and furthers the purposes of this Article, but the provisions of this Article shall be liberally construed. The Commission shall strive to avoid imposing any unnecessary barriers in the grant application process.

(2) Develop criteria for awarding grants under this Article. The criteria shall include types of programs and initiatives to be funded, including programs which address the short- and long-term health and wellness of the citizens of North Carolina.

(3) Develop criteria by which to measure the outcomes of funded programs to evaluate the extent to which those programs achieved the goals for which funds were awarded.

(4) Develop a mechanism with which to evaluate individual applications.

(5) Ensure that good faith efforts are made to achieve federal mandates targeting the reduction of youth access to tobacco products.

(6) Administer the provisions of this Article.

(7) Adopt rules to implement this Article.

(b) The Commission is authorized to hire staff or contract for other expertise for the administration of the Fund.

(c) Gifts and Grants. -- The Commission is authorized to accept gifts or grants from other sources.

"*§ 147-86.34. Advisory Council.*

The Commission shall create an Advisory Council to advise it with regard to issues as requested by the Commission. The Advisory Council shall include the Secretary of the Department of Health and Human Services, the State Health Director, the Dean of the School of Public Health of the University of North Carolina, and others the Commission considers necessary.

"*§ 147-86.35. Health and Wellness Trust Fund; reporting requirements.*

(a) The chair of the Commission shall report each year by November 1 to the Joint Legislative Commission on Governmental Operations and to the chairs of the Joint Legislative Health Care Oversight Committee regarding implementation of this Article, including a report on funds disbursed during the fiscal year by amount, purpose, and category of recipient, and other information as requested by the Joint Legislative Commission on Governmental Operations. The annual report shall also include a summary of each recipient's annual report submitted to the Health and Wellness Trust Fund Commission pursuant to G.S. 147-86.31(b) and an analysis of progress toward the goals and objectives of any comprehensive, community-based plan established pursuant to G.S. 147-86.30(e)(3).

A written copy of the annual report shall also be sent to the Legislative Library by November 1 each year. Written reports shall also be sent on a quarterly basis to the Joint Legislative Commission on Governmental Operations.

(b) Any non-State corporation, organization, or institution that receives, uses, or expends any funds from the Commission is subject to the applicable reporting requirements of G.S. 143-6.1.

"§ 147-86.36. *Health and Wellness Trust Fund; open meeting and public records requirements.*

The Open Meetings Law (Article 33 of Chapter 143 of the General Statutes) and the Public Records Act (Chapter 132 of the General Statutes) shall apply to the Fund and the Commission, and the Fund and the Commission shall be subject to audit by the State Auditor as provided by law. The Commission shall reimburse the State Auditor for the actual cost of the audit."

PART III. TOBACCO TRUST FUND AND TOBACCO COMMISSION

Section 3. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 75.

"Tobacco Trust Fund.

"§ *143-715. Policy; purpose.*

The General Assembly finds:

(1) For many years, the State and its prosperity have been supported by its agricultural economy and particularly by the tobacco-related segment of the agricultural economy. The Master Settlement Agreement is expected to cause significant economic hardship upon the tobacco-related segment of the agricultural economy in that it is expected to result in reduced demand, sales, and prices for tobacco as an agricultural product.

(2) Tobacco producers, tobacco allotment holders, and persons engaged in tobacco-related businesses are entitled to indemnification for the adverse economic effects in the State resulting from the Master Settlement Agreement, tobacco producers, allotment holders, and persons engaged in tobacco-related businesses are entitled to compensation for the economic losses resulting from lost quota in this State, and tobacco producers are entitled to compensation for the decline in value of tobacco-related personal property assets and declining market conditions in this State resulting from the Master Settlement Agreement, to the extent that funds are available in the Tobacco Trust Fund to address those purposes.

(3) Even in the absence of the Master Settlement Agreement, the tobacco-related segment of the State's economy is experiencing severe economic hardship as it confronts a national decline in the use of, and demand for, tobacco

products, which decline is expected to continue. At present, the tobacco producers, tobacco allotment holders, and persons engaged in tobacco-related businesses are facing an economic crisis that threatens their health and survival. Therefore, in addition to indemnification and compensation for losses in this State resulting from the Master Settlement Agreement, the public interest will be served by the funding of qualified agricultural programs that support, foster, encourage, and facilitate a strong agricultural economy in North Carolina. To the extent that funds are available in the Tobacco Trust Fund, expenditure of those funds to finance qualified agricultural programs is in the public interest.

(4) It is a public purpose for these funds to be expended in this manner, and it is public service for these persons to accept these funds to the end that conditions of unemployment and fiscal distress may be alleviated or avoided, more stable local economies may be created, local tax bases may be stabilized and maintained, natural resources may be optimally used, and the general public may be benefited.

"§ *143-716. Definitions.*

The following definitions apply in this Article:

(1) Commission. -- The Tobacco Trust Fund Commission.

(2) Compensatory programs. -- Programs developed by the Commission to identify, locate, compensate, and indemnify tobacco producers, allotment holders, and persons engaged in tobacco-related businesses who have suffered actual economic losses in this State due to lost quota, the decline in value of tobacco-related personal property assets, and declining market conditions resulting from the Master Settlement Agreement or declines in the tobacco-related segment of the State's economy.

(3) Fund. -- The Tobacco Trust Fund.

(4) Master Settlement Agreement. -- The settlement agreement between certain tobacco manufacturers and the states, as incorporated in the consent decree entered in the action of State of North Carolina v. Philip Morris, Incorporated, et al., 98 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina.

(5) National Tobacco Grower Settlement Trust. -- The trust established by tobacco companies to provide payments to tobacco growers and allotment holders in 14 states for the purposes of ameliorating potential adverse economic consequences of likely reduction in demand, sales, and prices for tobacco as an agricultural product as a result of the Master Settlement Agreement.

(6) Qualified agricultural programs. -- Programs developed by the Commission to support and foster the vitality and solvency of the tobacco-related segment of the State's agricultural economy, particularly the segment adversely

affected by the Master Settlement Agreement, with the objective of alleviating and avoiding unemployment, preserving, and increasing local tax bases, and encouraging the economic stability of participants in the State's agricultural economy. Examples of qualified agricultural programs include programs to finance the modernization of farming equipment, programs to finance the conversion of existing equipment to conform to environmental and other regulatory requirements, and programs to finance the conversion or replacement of equipment in order to cultivate crops that are more profitable than are currently being cultivated.

(7) Tobacco product component business. -- An individual, partnership, limited liability company, corporation, or other commercial entity that engages in the manufacture of component products for use in the manufacture of tobacco products.

(8) Tobacco-related business. -- An individual, partnership, limited liability company, corporation, or other commercial entity that provides products or services used directly in (i) the production of tobacco, or (ii) support of the business of the production or sale of tobacco. The term does not include the manufacturing of tobacco products or the sale of tobacco products at wholesale or retail.

(9) Tobacco-related employment. -- Employment in a tobacco-related business, or in the manufacturing of tobacco products or the component products used in the manufacture of tobacco products. The term does not include persons employed in the sale of tobacco products at wholesale or retail.

"*§ 143-717. Commission.*

(a) Creation. -- The Tobacco Trust Fund Commission is created. The Commission shall be administratively located within the Department of Agriculture and Consumer Services but shall exercise its powers independently of the Commissioner of Agriculture and the Department. All administrative expenses of the Commission shall be paid from the Fund.

(b) Membership. -- The Commission shall consist of 18 members. The Commission shall be appointed as follows: six members by the Governor, six members by the President Pro Tempore of the Senate, and six members by the Speaker of the House of Representatives. The members shall be appointed as follows:

(1) The Governor shall make the following appointments:

a. A flue-cured tobacco farmer.

b. A flue-cured tobacco farmer.

c. A person in or displaced from tobacco-related employment.

d. An at-large appointee.

e. An at-large appointee.

f. An at-large appointee.

(2) The President Pro Tempore of the Senate shall make the following appointments:

a. A flue-cured tobacco farmer.

b. A flue-cured tobacco farmer.

c. A burley allotment holder who is also a burley tobacco farmer.

d. An at-large appointee.

e. An at-large appointee.

f. An at-large appointee.

(3) The Speaker of the House of Representatives shall make the following appointments:

a. A flue-cured tobacco farmer.

b. A flue-cured allotment holder who is not also a flue-cured tobacco farmer.

c. A burley tobacco farmer.

d. An at-large appointee.

e. An at-large appointee.

f. An at-large appointee.

It is the intent of the General Assembly that the appointing authorities, in appointing members, shall appoint members who represent the geographic, political, gender, and racial diversity of the State. It is the intent of the General Assembly that at least one-half of the members of the Commission be tobacco farmers.

Except as provided for the initial members under subsection (c) of this section, members shall serve four-year terms beginning July 1. No member may serve more than two full consecutive terms. Members may continue to serve beyond their terms until their successors are duly appointed, but any holdover shall not affect the expiration date of the succeeding term. Vacancies shall be filled by the designated appointing authority for the remainder of the unexpired term. A member may be removed from office for cause by the authority that appointed that member.

(c) Initial Membership; Staggering. -- To provide for a staggered membership, the members initially appointed to the Commission shall be appointed to staggered terms. Of the initial appointments to the Commission, the members initially appointed pursuant to sub-subdivisions (b)(1)a., (1)b., (2)d., and (3)d. of this section shall serve one-year terms ending on June 30, 2001. The members initially appointed pursuant to sub-subdivisions (b)(2)c., (2)e., (3)a., and (3)e. shall serve two-year terms ending on June 30, 2002. The members initially appointed pursuant to sub-subdivisions (b)(1)c., (1)d., (1)e., (2)b., and (3)c. of this section shall serve three-year terms ending June 30, 2003. The remaining members initially appointed pursuant to subsection (b) of this section shall serve four-year terms ending June 30, 2004.

(d) Officers. -- The Commission shall elect from its membership a chair, vice-chair, and other officers as necessary for two-year terms beginning July 1 at the first meeting of the Commission held on or

after July 1 of every even-numbered year. The vice-chair may act for the chair in the absence of the chair as authorized by the Commission.

(e) Frequency of Meetings. -- The Commission shall meet at least quarterly each year and may hold special meetings at the call of the chair or a majority of members. The Governor shall call the initial meeting of the Commission.

(f) Quorum; Majority. -- Ten members shall constitute a quorum of the Commission. The Commission may act upon a majority vote of the members of the Commission on matters involving the disbursement of funds and personnel matters properly before the Commission. On all other matters, the Commission may act by majority vote of the members of the Commission at a meeting at which a quorum is present.

(g) Per Diem and Expenses. -- The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per diem, subsistence, and travel expenses of the members shall be paid from the Fund.

(h) Conflict of Interest. -- Members of the Commission shall comply with the provisions of G.S. 14-234 prohibiting conflicts of interest, except that G.S. 14-234(a) shall not apply to an application for or the receipt of a grant or other financial assistance award by a member of the Commission from the Fund created under this Article, or an entity in which a member of the Commission has an interest, if both of the following conditions are met:

(1) A member does not vote on, participate in the deliberation of, or otherwise attempt through his or her official capacity to influence the vote on, a grant or other financial assistance award by the Commission to the member.

(2) The Commissioner of Agriculture determines that any award to a member is in accordance with general criteria adopted by the Commission for the distribution of funds from the Fund.

(h) Limit on Operating and Administrative Expenses. -- No more than two and one-half percent (2 1/2%) of the annual receipts of the Fund for the fiscal year beginning July 1 or a total sum of one million dollars ($1,000,000), whichever is less, may be used each fiscal year for administrative and operating expenses of the Commission and its staff. All administrative expenses of the Commission shall be paid from the Fund.

"*§ 143-718. Powers and duties.*

The Commission shall have the following powers and duties:

(1) To administer the provisions of this Article.

(2) To develop compensatory programs and qualified agriculture programs, including guidelines and criteria for eligibility for and disbursement of funds, the forms of direct and indirect economic assistance to be awarded, and procedures for applying for and reviewing applications for assistance from the Fund. In developing guidelines and criteria for

eligibility and disbursement of funds, the Commission may consult with and otherwise obtain assistance from the State and local offices of the Farm Service Agency and other agencies of the United States Department of Agriculture.

(3) To provide financial assistance to eligible recipients, in carrying out compensatory programs and qualified agricultural programs.

(4) To hire staff for the administration of the Fund.

(5) To contract with other persons to assist in the administration of the Commission's programs.

(6) To accept gifts or grants from other sources.

(7) To adopt rules to implement this Article.

"*§ 143-719. Tobacco Trust Fund; creation; investment.*

(a) Fund Established. -- The Tobacco Trust Fund is established in the Office of the State Treasurer. The Fund shall be used to provide financial assistance in accordance with this Article.

(b) Fund Earnings, Assets, and Balances. -- The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Fund and shall invest the assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to the directives of the Commission.

"*§ 143-720. Benefits and administration of Fund for compensatory programs.*

(a) Funds held in the Fund may be expended on compensatory programs as provided in this section.

(b) The Fund may provide direct and indirect financial assistance, in accordance with criteria established by the Commission and to the extent allowed by law, to accomplish the following:

(1) Indemnify tobacco producers, allotment holders, and persons engaged in tobacco-related businesses from the adverse economic effects in this State of the Master Settlement Agreement.

(2) Compensate tobacco producers, allotment holders, and persons engaged in tobacco-related businesses for economic loss resulting from lost quota and compensate tobacco producers for the decline in value of tobacco-related personal property assets and declining market conditions resulting from the Master Settlement Agreement in this State.

(3) Compensate individuals displaced from tobacco-related employment in this State as a result of the adverse economic effects of the Master Settlement Agreement.

(4) Compensate tobacco product component businesses that are (i) adversely impacted by the Master Settlement Agreement and that (ii) need financial assistance to retool machinery or

equipment or to retrain workers, in order to convert to the production of new products or nontobacco use of existing products, or to effect other similar changes.

(c) Only tobacco producers, persons engaged in tobacco-related businesses, individuals displaced from tobacco-related employment, and tobacco product component businesses in this State, and holders of North Carolina tobacco allotments are eligible to apply for and receive assistance pursuant to subsection (b) of this section. Direct payments made to tobacco producers, tobacco allotment holders, and persons engaged in tobacco-related businesses shall be based on losses resulting in 1998 and thereafter. Lost quota shall be a primary determinative factor in calculating the amount of compensable economic loss for tobacco producers, allotment holders, and persons engaged in tobacco-related businesses.

(d) The Commission shall determine the priority of awards among the categories in subsection (b) of this section and within each of those categories.

(e) Financial assistance awards shall be for no more than one year at a time. An award may be renewed annually, without limitation.

(f) The Commission may require applicants to provide copies of documents necessary to determine compensable economic loss.

(g) In no event shall the amount paid to a tobacco producer or allotment holder pursuant to this Article, when combined with the amount received through the National Tobacco Grower Settlement Trust, exceed the compensable economic loss of the producer or allotment holder.

(h) The Commission may consider the criteria used for National Tobacco Grower Settlement Trust payments and may correspond with the National Tobacco Grower Settlement Trust certification entity to ensure that tobacco farmers and allotment holders are treated fairly.

"§ 143-721. Benefits and administration of Fund for qualified agricultural programs.

(a) Funds held in the Fund may be expended on qualified agricultural programs as provided in this section.

(b) In implementing qualified agricultural programs, the Commission shall endeavor to identify those areas of the tobacco-related segment of the State's economy in need of assistance to be provided by the Fund in order to assure the continued vitality and solvency of those areas. The Commission shall endeavor to select for funding qualified agricultural programs that will have the greatest favorable impact on the long-term health of the tobacco-related economy of the State.

(c) The benefits of qualified agricultural programs are not limited to persons suffering economic loss resulting from the Master Settlement Agreement, but these programs shall be designed to foster, support, and assist the tobacco-related segment of the agricultural economy.

(d) The Commission may solicit and accept proposals from agencies and departments of the State, including institutions of The

University of North Carolina, local units of government, the federal government, and members of the private sector for qualified agricultural programs to be funded with money held in the Fund.

"§ *143-722. Reporting.*

(a) The chair of the Commission shall report each year by November 1 to the Joint Legislative Commission on Governmental Operations and the chairs of the House and Senate Appropriations Committees regarding the implementation of this Article, including a report on funds disbursed during the fiscal year by amount, purpose, and category of recipient, and other information as requested by the Joint Legislative Commission on Governmental Operations. A written copy of the report shall also be sent to the Legislative Library by November 1 each year.

(b) Any non-State corporation, organization, or institution that receives, uses, or expends any funds from the Commission is subject to the applicable reporting requirements of G.S 143-6.1.

"§ *143-723. Open meetings; public records; audit.*

The Open Meetings Law (Article 33 of Chapter 143 of the General Statutes) and the Public Records Act (Chapter 132 of the General Statutes) shall apply to the Fund and the Commission, and the Fund and the Commission shall be subject to audit by the State Auditor as provided by law. The Commission shall reimburse the State Auditor for the actual cost of the audit."

PART IV. STATE PERSONNEL ACT EXEMPTION

Section 4. G.S. 126-5(c1) reads as rewritten:

"(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

(1) Constitutional officers of the State.
(2) Officers and employees of the Judicial Department.
(3) Officers and employees of the General Assembly.
(4) Members of boards, committees, commissions, councils, and advisory councils compensated on a per diem basis.
(5) Officials or employees whose salaries are fixed by the General Assembly, or by the Governor, or by the Governor and Council of State, or by the Governor subject to the approval of the Council of State.
(6) Employees of the Office of the Governor that the Governor, at any time, in his discretion, exempts from the application of the provisions of this Chapter by means of a letter to the State Personnel Director designating these employees.
(7) Employees of the Office of the Lieutenant Governor, that the Lieutenant Governor, at any time, in his discretion, exempts from the application of the provisions of this Chapter by means of a letter to the State Personnel Director designating these employees.
(8) Instructional and research staff, physicians, and dentists of The University of North Carolina.

(9) Employees whose salaries are fixed under the authority vested in the Board of Governors of The University of North Carolina by the provisions of G.S. 116-11(4), 116-11(5), and 116-14.
(10) Repealed by Session Laws 1991, c. 84, s. 1.
(11) North Carolina School of Science and Mathematics' employees whose salaries are fixed in accordance with the provisions of G.S. 116-235(c)(1) and G.S. 116-235(c)(2).
(12) Employees of the North Carolina Low-Level Radioactive Waste Management Authority whose salaries are fixed pursuant to G.S. 104G-5(g)(1) and G.S. 104G-5(g)(2).
(13) Employees of the North Carolina Hazardous Waste Management Commission whose salaries are fixed pursuant to G.S. 130B-6(g)(1) and G.S. 130B-6(g)(2).
(14) Employees of the North Carolina State Ports Authority.
(15) Employees of the North Carolina Global TransPark Authority.
(16) The executive director and one associate director of the North Carolina Center for Nursing established under Article 9F of Chapter 90 of the General Statutes.
(17) The executive director of the independent staff of the Information Resources Management Commission established under G.S. 143B-472.41A.
(18) Employees of the Tobacco Trust Fund Commission established in Article 75 of Chapter 143 of the General Statutes.
(19) Employees of the Health and Wellness Trust Fund Commission established in Article 21 of Chapter 130A of the General Statutes."

PART V. NO LEGISLATORS ON COMMISSIONS

Section 5. G.S. 120-123 is amended by adding two new subdivisions to read:

"*§ 120-123. Service by members of the General Assembly on certain boards and commissions.*

No member of the General Assembly may serve on any of the following boards or commissions:

. . .

(70) The Tobacco Trust Fund Commission established in Article 75 of Chapter 143 of the General Statutes.
(71) The Health and Wellness Trust Fund Commission established in Article 21 of Chapter 130A of the General Statutes."

PART VI. CONFLICT OF INTEREST (TOBACCO)

Section 6. G.S. 14-234 is amended by adding a new subsection to read:

"(d4) Subsection (a) of this section does not apply to an application for, or the receipt of a grant or other financial assistance from, the

Tobacco Trust Fund created under Article 75 of Chapter 143 of the General Statutes by a member of the Tobacco Trust Fund Commission or an entity in which a member of the Commission has an interest provided that the requirements of G.S. 143-717(g) are met."

PART VII. NATIONAL TOBACCO GROWER SETTLEMENT DISCRETIONARY TRUST CLARIFICATION

Section 7. G.S. 36A-115(b) reads as rewritten:

"(b) Subsection (a) hereof shall not apply to a beneficiary's estate or interest in any one or any combination of one or more of the trusts described below, in which the beneficiary's estate or interest shall not be alienable either voluntarily or involuntarily.

(1) Discretionary Trust. -- A trust wherein the amount to be received by the beneficiary, including whether or not the beneficiary is to receive anything at all, is within the discretion of the trustee. A discretionary trust within the meaning of this subsection shall also include a trust for the benefit of one or more classes of beneficiaries as defined in the trust, wherein the amount to be received by any beneficiary or class of beneficiaries, including whether or not that beneficiary or class of beneficiaries is to receive anything at all, is determined by the board of directors of a certification entity. A certification entity is one that delivers on a yearly basis to the trustee a plan describing the categories of persons or entities to whom trust distributions will be made and explaining how each category falls within the definition of class or classes of beneficiaries defined in the trust.

(2) Support Trust. -- A trust wherein the trustee has no duty to pay or distribute any particular amount to the beneficiary, but has only a duty to pay or distribute to the beneficiary, or to apply on behalf of the beneficiary such sums as the trustee shall, in his discretion, determine are appropriate for the support, education or maintenance of the beneficiary.

(3) Protective Trust. -- A trust wherein the creating instrument provides that the interest of the beneficiary shall cease if
   a. The beneficiary alienates or attempts to alienate that interest; or
   b. Any creditor attempts to reach the beneficiary's interest by attachment, levy, or otherwise; or
   c. The beneficiary becomes insolvent or bankrupt."

PART VIII. APPLICABILITY AND EFFECTIVE DATE

Section 8.(a) Interpretation of Act. -- The foregoing sections of this act provide an additional and alternative method for the doing of the things authorized by the act, are supplemental and additional to powers conferred by other laws, and do not derogate any powers now existing.

Section 8.(b) References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as amended and as they may be amended from time to time by the General Assembly.

Section 8.(c) This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

Section 8.(d) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

Section 9. Effective Date. -- This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 9:18 a.m. on the 2nd day of August, 2000.

H.B. 1819 **SESSION LAW 2000-148**

AN ACT TO CREATE THE RURAL REDEVELOPMENT AUTHORITY TO FINANCE RURAL ECONOMIC DEVELOPMENT PROJECTS AND INVEST IN RURAL BUSINESS DEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2D. North Carolina Rural Redevelopment Authority.

"*§ 143B-437.20. Short title and intent.*

This Part is the 'North Carolina Rural Redevelopment Authority Act'. The purpose of the North Carolina Redevelopment Authority is to finance rural economic development projects and invest in rural business development.

"*§ 143B-437.21. Definitions.*

The following definitions apply in this Part:

(1) Authority. -- The North Carolina Rural Redevelopment Authority.

(2) Board. -- The Board of Directors of the Authority.

(3) Development project. -- Any investment that enables or makes more likely the location or expansion of industrial and commercial businesses in rural counties, which may include sites and industrial parks or centers, together with improvements, such as shell buildings and internal infrastructure.

(4) Financial institution. -- A business that is (i) a bank holding company, as defined in the Bank Holding Company Act of 1956, 12 U.S.C. §§ 1841, et seq., or its wholly owned

subsidiary, (ii) registered as a broker-dealer under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a, et seq., or its wholly owned subsidiary, (iii) an investment company as defined in the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1, et seq., whether or not it is required to register under that act, (iv) a small business investment company as defined in the Small Business Investment Act of 1958, 15 U.S.C. §§ 661, et seq., (v) a pension or profit-sharing fund or trust, or (vi) a bank, savings institution, trust company, financial services company, or insurance company. The term does not include, however, a business that does not generally market its services to the public and is controlled by a business that is not a financial institution.

(5) Intermediate-term loan. -- A loan whose term does not exceed three years.

(6) Regional partnership. -- Any of the following:

a. The Western North Carolina Regional Economic Development Commission created in G.S. 158-8.1.

b. The Northeastern North Carolina Regional Economic Development Commission created in G.S. 158-8.2.

c. The Southeastern North Carolina Regional Economic Development Commission created in G.S. 158-8.3.

d. The Global TransPark Development Commission created in G.S. 158-33.

e. The Carolinas Partnership, Inc.

f. The Research Triangle Regional Partnership.

g. The Piedmont Triad Partnership.

(7) Revenues. -- The receipts of the Authority during an accounting period, including interest and dividends on investments, realized capital gains, income from lending and consulting activities, rent or lease income, appropriations from the General Assembly, grants from the Golden L.E.A.F. (Long-term Economic Advancement Foundation), Inc., and grants and gifts from public and private entities to further the purposes of the Authority.

(8) Rural county. -- A county in North Carolina with a density of fewer than 200 people per square mile based on the most recent United States decennial census.

(9) Small business investment company. -- A small business investment company as defined in the Small Business Investment Act of 1958, 15 U.S.C. §§ 661, et seq.

"*§ 143B-437.22. Creation of Authority and Board.*

(a) Creation. -- The North Carolina Rural Redevelopment Authority is created as a body corporate and politic with the powers and jurisdiction as provided under this Part or any other law. The Authority is a State agency created to perform essential governmental and public functions. The Authority is located within the Department of Commerce, but exercises all of its powers, including the power to employ, direct, and supervise all personnel, independently of the

Secretary of Commerce and, notwithstanding any other provision of law, is subject to the direction and supervision of the Secretary of Commerce only with respect to the management functions of coordinating and reporting.

(b) Board of Directors. -- The Authority is governed by a Board of Directors, which consists of the following 11 members:

(1) Three members appointed by the Governor, two of whom must be representatives of financial institutions and one of whom must be an elected official representing a local government of or in a rural county.

(2) Three members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, one of whom must be a representative of a regional partnership with a predominantly rural constituency and one of whom must be a representative of a financial institution.

(3) Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, two of whom must be representatives of financial institutions.

(4) The Secretary of Commerce, who shall serve ex officio.

(5) The chief executive officer of the Authority.

(c) Oath. -- As the holder of an office, each member of the Board must take the oath required by Section 7 of Article VI of the North Carolina Constitution before assuming the duties of a Board member.

(d) Selection Criteria. -- In making appointments to the Board, the Governor and the General Assembly shall give consideration to the geographical representation of the State. In addition, members appointed representing financial institutions ideally would be experienced in areas such as commercial lending and commercial real estate lending, public finance, and economic development; work assignments or experiences in rural counties also would be desirable.

(e) Terms. -- The term of office of a member of the Board is three years, except that the Governor shall designate two of the initial members appointed under subdivision (b)(1) of this section to serve a term of one year, and the General Assembly shall designate one of the initial members appointed under subdivision (b)(2) of this section and one of the initial members appointed under subdivision (b)(3) of this section to serve a term of two years. The term of office for the chief executive officer of the Authority shall coincide with the officer's employment by the Board.

(f) Chair and Vice-Chair of the Board. -- The Governor shall designate one of the members appointed by the Governor as the Chair of the Board. The Governor shall convene the first meeting of the Board, at which time the members of the Board shall elect from their membership a Vice-Chair of the Board.

(g) Vacancies. -- All members of the Board shall remain in office until their successors are appointed and qualify. A vacancy in an appointment made by the Governor shall be filled by the Governor for

the remainder of the unexpired term. A vacancy in an appointment made by the General Assembly shall be filled in accordance with G.S. 120-122. A person appointed to fill a vacancy must qualify in the same manner as a person appointed for a full term.

(h) Removal of Board Members. -- The Governor may remove any member of the Board for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13(d). The Governor or the person who appointed a member of the Board may remove the member for using improper influence in accordance with G.S. 143B-13(c).

(i) Organization of the Board. -- The Board shall adopt bylaws with respect to the calling of meetings, quorums, voting procedures, the keeping of records, and other organizational and administrative matters as the Board may determine. A quorum shall consist of a majority of the members of the Board. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all rights and to perform all the duties of the Board and the Authority.

(j) Compensation of the Board. -- No part of the revenues or assets of the Authority shall inure to the benefit of or be distributable to the members of the Board or officers or other private persons. The members of the Board other than the chief executive officer shall receive no salary for their services but may receive per diem and allowances in accordance with G.S. 138-5.

(k) Treasurer. -- The Board shall select the Authority's treasurer. The Board shall require a surety bond of the appointee in the amount as the Board may fix, and the premium shall be paid by the Authority as a necessary expense of the Authority.

(l) Chief Executive Officer and Other Employees. -- The Board shall appoint a full-time professional chief executive officer, whose salary shall be fixed by the Board, to serve at its pleasure. The chief executive officer or a person designated by the chief executive officer shall appoint, employ, dismiss, and, within the limits of available funding, fix the compensation of other employees as considered necessary.

(m) Office. -- The Board shall establish an office for the transaction of the Authority's business at the place the Board finds advisable or necessary to implement the provisions of this Part.

"*§ 143B-437.23. Powers of the Authority.*

(a) The Authority has all of the powers necessary to execute the provisions of this Part, including at least the following powers:

(1) The powers of a corporate body, including the power to sue and be sued, to make contracts, to adopt and use a common seal, and to alter the adopted seal as needed.

(2) To finance the purchase of real or personal property.

(3) To contract and enter into agreements with the State, local governments, other authorities of North Carolina, and other states for the interchange of business.

(4) To create and operate agencies and departments needed to implement this Part.

(5) To pay all necessary costs and expenses in the formation, organization, administration, and operation of the Authority.

(6) To apply for, accept, and administer grants of money from any federal agency, from the State or its political subdivisions, or from any other public or private sources available, and to expend the money in accordance with the requirements imposed by the donor.

(7) To adopt, alter, or repeal its own bylaws or rules implementing the provisions of this Part.

(8) To execute financing agreements, security documents, and other instruments necessary in exercising its power under this Part.

(9) To fix, charge, collect, pledge, or assign revenues of the Authority.

(10) To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and other consultants and employees as may be required in the judgment of the Board and to fix and pay their compensation from funds available to the Authority.

(11) To provide consulting and advisory services to government entities and to private, nonprofit entities.

(12) To procure and maintain adequate insurance or otherwise provide for adequate protection to indemnify the Authority and its officers, directors, agents, employees, adjoining property owners, or the general public against loss or liability resulting from any act or omission by or on behalf of the Authority.

(13) To exercise the powers granted counties and cities under G.S. 158-7.1(a).

(14) With the approval of any unit of local government, to use officers, employees, agents, and facilities of the unit of local government for the purposes and upon the terms as may be mutually agreeable.

(15) To receive and use appropriations from the State, including an appropriation from the proceeds of State general obligation bonds or notes.

(16) To create and administer the Rural Investment Fund and the Long-Term Rural Development Fund, as provided in this Part.

(17) To invest in securities of a small business investment company or in a limited partnership interest in a partnership that invests principally in companies in rural counties.

(18) To act as a regranting agency for government grants specifically designated for that purpose.

(b) To execute the powers provided in subsection (a) of this section, the Board shall determine the policies of the Authority by majority vote of the members of the Board present and voting, a quorum

having been established. Once a policy is determined, the Board shall communicate it to the chief executive officer, who has the exclusive authority to execute the policy of the Authority. No member of the Board is authorized to give operational directives to any employee of the Authority other than the chief executive officer.

(c) The Authority does not have the power of eminent domain or the power to levy any tax.

"*§ 143B-437.24:* Reserved.

"*§ 143B-437.25:* Reserved.

"*§ 143B-437.26. Authority funds.*

Funds of the Authority may be paid out only upon warrants signed by the treasurer or assistant treasurer of the Authority and countersigned by the Chair, the acting Chair, or the chief executive officer. No warrants may be drawn or issued disbursing any of the funds of the Authority except for a purpose authorized by this Part and unless the account or expenditure has been audited and approved by the Authority or its chief executive officer.

"*§ 143B-437.27. Rural Investment Fund.*

The Authority may create a revolving loan fund to be called the Rural Investment Fund. The Authority shall use monies in the Investment Fund only to make intermediate-term loans to government entities and to private, nonprofit entities for self-liquidating projects, such as shell buildings, in rural counties. The Authority shall adopt rules establishing interest rates, maximum loans, security requirements, eligibility standards, application procedures, award criteria, and award schedules, and otherwise providing for the administration of the Investment Fund. The Authority shall give priority to applications from regional partnerships.

"*§ 143B-437.28. Long-Term Rural Development Fund.*

(a) The Authority may create a fund to be known as the Long-Term Rural Development Fund. The Authority may invest and reinvest the assets of the Development Fund.

(b) The income derived from the investment or deposit of the Development Fund shall be used for the following purposes:

(1) To pay the administrative expenses of the Authority.

(2) To make intermediate-term loans and longer-term loans to government entities and to private, nonprofit entities for self-liquidating projects, such as shell buildings, in rural counties.

(3) To provide for the development of property for industrial sites and industrial parks in rural counties, including any of the following:

a. Providing water, sewer, gas, or electrical distribution lines or equipment for an industrial site or industrial park.

b. Providing road or railroad improvements for an industrial site or industrial park.

c. Providing fiber optic or coaxial cable, towers, and other infrastructure items to accommodate high-speed Internet access.

d. Providing air or water pollution control facilities.

(c) The Authority shall adopt rules establishing interest rates, maximum loans, security requirements, eligibility standards, application procedures, award criteria, and award schedules, and otherwise providing for the administration of the Development Fund. The Authority shall give priority to applications from regional partnerships.

"*§ 143B-437.29. Contracting with minority businesses.*

The Authority must comply with the policies regarding contracting with minority businesses as set out in G.S. 143-48, 143-128(f), and 143-135.5 and with any other applicable laws. The Authority is subject to Executive Order Number 150, issued April 20, 1999, regarding contracting with historically underutilized businesses.

"*§ 143B-437.30. Conflicts of interest.*

If any member, officer, or employee of the Authority is interested either directly or indirectly, or is an officer or employee of or has an ownership interest in any firm or corporation, not including units of local government, interested directly or indirectly, in any contract with the Authority, the member, officer, or employee must disclose the interest to the Board, which must set forth the disclosure in the minutes of the Board. The member, officer, or employee having an interest may not participate on behalf of the Authority in the authorization of any contract.

"*§ 143B-437.31. Cooperation by other State agencies.*

All State officers and agencies shall cooperate and may render services where appropriate to the Authority within their respective functions as may be requested by the Authority.

"*§ 143B-437.32. Annual and quarterly reports.*

The Authority must, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor and the General Assembly. Each report must be accompanied by an audit of its books and accounts. The audit must be conducted by the State Auditor. The costs of all audits shall be paid from funds of the Authority.

Each annual report must be accompanied by data indicating the geographical distribution of development projects funded directly or indirectly by the Authority. Every three years, the Authority shall provide to the Governor and to the General Assembly an analysis of the data for the previous three-year period showing the extent to which the funding of development projects has been distributed among the rural counties of every geographical region in an equitable manner.

The Authority must submit quarterly reports to the Joint Legislative Commission on Governmental Operations. The reports must summarize the Authority's activities during the quarter and contain any information about the Authority's activities that is requested by the Commission.

"§ *143B-437.33. Dissolution.*

Whenever the Board by resolution determines that the purposes for which the Authority was formed have been substantially fulfilled and that all obligations incurred by the Authority have been fully paid or satisfied, the Board may declare the Authority dissolved. On the effective date of the resolution, the title to all funds and other property owned by the Authority at the time of the dissolution vests in the State and possession of the funds and other property must be delivered to the State."

Section 2. G.S. 120-123 is amended by adding a new subdivision to read:

"(70) The North Carolina Rural Redevelopment Authority created in Part 2D of Article 10 of Chapter 143B of the General Statutes."

Section 3. G.S. 126-5(c1) is amended by adding a new subdivision to read:

"(18) Employees of the North Carolina Rural Redevelopment Authority created in Part 2D of Article 10 of Chapter 143B of the General Statutes."

Section 4. G.S. 150B-21.1(a7), as enacted by House Bill 1539, 1999 General Assembly, reads as rewritten:

"(a7) Notwithstanding the provisions of subdivision (a)(2) of this section, an agency may adopt a temporary rule to implement the provisions of any of the following acts until all rules necessary to implement the provisions of the act have become effective as either temporary or permanent rules:

(1) The North Carolina Rural Redevelopment Authority Act, Part 2D of Article 10 of Chapter 143B of the General Statutes.

(2) Article 34B of Chapter 115C of the General ~~Statutes.~~ Statutes, relating to qualified zone academy bonds."

Section 5. G.S. 150B-21.1(a7)(1), as enacted by Section 4 of this act, is repealed effective July 1, 2002.

Section 6. G.S. 66-58(b) is amended by adding a new subdivision to read:

"(21) The North Carolina Rural Redevelopment Authority or a lessee of the Authority."

Section 7. This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law upon approval of the Governor at 9:20 a.m. on the 2nd day of August, 2000.

S.B. 1343 **SESSION LAW 2000-149**

AN ACT TO CREATE THE NORTH CAROLINA RURAL INTERNET ACCESS AUTHORITY AND TO DIRECT THE REGIONAL PARTNERSHIPS, WITH THE ASSISTANCE OF THE NORTH CAROLINA RURAL ECONOMIC

DEVELOPMENT CENTER, TO STUDY AND REPORT ON THE INFORMATION TECHNOLOGY INFRASTRUCTURE AND INFORMATION TECHNOLOGY NEEDS OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2E. North Carolina Rural Internet Access Authority.

"*§ 143B-437.40. Short title and intent.*

This Part is the 'North Carolina Rural Internet Access Authority Act.' The General Assembly finds as follows:

(1) Access to computers and the Internet, along with the ability to effectively use these technologies, are becoming increasingly important for full participation in America's economic, political, and social life.

(2) Affordable, high-speed Internet access is a key competitive factor for economic development and quality of life in the New Economy of the global marketplace.

(3) In the digital age, universal connectivity at affordable prices is a necessity for business transactions, education and training, health care, government services, and the democratic process.

(4) Unequal access to computer technology and Internet connectivity by income, educational level and/or geography could deepen and reinforce the divisions that exist in our society.

(5) The intent of the Rural Internet Access Authority is to close this digital divide for the citizens of North Carolina.

"*§ 143B-437.41. Definitions.*

The following definitions apply in this Part:

(1) Authority. -- The North Carolina Rural Internet Access Authority.

(2) Commission. -- The governing body of the Authority.

(3) High-speed broadband Internet access. -- Internet access with transmission speeds of at least 128 kilobits per second for residential customers and at least 256 kilobits per second for business customers.

(4) Regional partnership. -- Defined in G.S. 143B-437.21.

(5) Rural county. -- A county with a density of fewer than 200 people per square mile based on the 1990 United States decennial census.

"*§ 143B-437.42. Creation of Authority and Commission.*

(a) Creation. -- The North Carolina Rural Internet Access Authority is created within the Department of Commerce and, notwithstanding any other provision of law, is subject to the direction and supervision of the Secretary of Commerce only with respect to the management functions of coordinating and reporting. These functions of the Secretary of Commerce are ministerial and shall be performed only pursuant to the direction and policy of the Commission.

The purpose of the Authority is to manage, oversee, and monitor efforts to provide rural counties with high-speed broadband Internet access. The Authority shall also serve as the central rural Internet access policy planning body of the State and shall communicate and coordinate with State, regional, and local agencies and private entities in order to implement a coordinated rural Internet access policy.

(b) Commission. -- The Authority is governed by a Commission that consists of 21 members, six members appointed by the Governor, six members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, six members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and the following three ex officio, voting members: the State's Chief Information Officer, the chair of the North Carolina Rural Economic Development Center, and the Secretary of Commerce.

It is the intent of the General Assembly that the appointing authorities, in making appointments, shall appoint members who represent the geographic, gender, and racial diversity of the State, members who represent rural counties, members who represent regional partnerships, and members who represent the communications industry, which may include local telephone exchange companies, rural telephone cooperatives, Internet service providers, commercial wireless communications carriers, and other communications businesses.

(c) Oath. -- As the holder of an office, each member of the Commission must take the oath required by Section 7 of Article VI of the North Carolina Constitution before assuming the duties of a Commission member.

(d) Terms; Commencement; Staggering. -- Except as provided in subsection (f) of this section, all terms of office shall commence on August 1 of the year the appointment is made. The appointing officers shall designate one-half of their appointees to serve one-year terms; members may serve up to four consecutive one-year terms. The appointing officers shall designate their remaining appointees to serve three-year terms; members may serve up to two consecutive three-year terms.

(e) Chair. -- The Governor shall designate one of the members appointed by the Governor as the Chair of the Commission. The Governor shall convene the first meeting of the Commission.

(f) Vacancies. -- All members of the Commission shall remain in office until their successors are appointed and qualify. A vacancy in an appointment made by the Governor shall be filled by the Governor for the remainder of the unexpired term. A vacancy in an appointment made by the General Assembly shall be filled in accordance with G.S. 120-122. A person appointed to fill a vacancy must qualify in the same manner as a person appointed for a full term.

(g) Removal of Commission Members. -- The Governor may remove any member of the Commission for misfeasance, malfeasance,

or nonfeasance in accordance with G.S. 143B-13(d). The Governor or the person who appointed a member may remove the member for using improper influence in accordance with G.S. 143B-13(c).

(h) Compensation of the Commission. -- No part of the revenues or assets of the Authority shall inure to the benefit of or be distributable to the members of the Commission or officers or other private persons. The members of the Commission shall receive no salary for their services but may receive per diem and allowances in accordance with G.S. 138-5.

(i) Staff. -- The North Carolina Rural Economic Development Center, Inc., shall provide administrative and professional staff support for the Authority under contract.

(j) Conflicts of Interest. -- Members of the Authority shall comply with the provisions of G.S. 14-234 prohibiting conflicts of interest. In addition, if any member, officer, or employee of the Authority is interested either directly or indirectly, or is an officer or employee of or has an ownership interest in any firm or corporation, not including units of local government, interested directly or indirectly, in any contract with the Authority, the member, officer, or employee must disclose the interest to the Commission, which must set forth the disclosure in the minutes of the Commission. The member, officer, or employee having an interest may not participate on behalf of the Authority in the authorization of any contract.

"*§ 143B-437.43. Powers, duties, and goals of the Authority.*

(a) Powers. -- The Authority shall have the following powers:

(1) To employ, contract with, direct, and supervise all personnel and consultants.

(2) To apply for, accept, and utilize grants, contributions, and appropriations in order to carry out its duties and goals as defined in this Part.

(3) To enter into contracts and to provide support and assistance to local governments, nonprofit entities, and regional partnerships, in carrying out its duties and goals under this Part.

(4) To review and recommend changes in all laws, rules, programs, and policies of this State or any agency or subdivision thereof to further the goals of rural Internet access.

(b) Duties. -- The Authority shall have the following duties:

(1) To develop and recommend to the Governor, the General Assembly, and the North Carolina Rural Redevelopment Authority a plan to provide rural counties with high-speed broadband Internet access.

(2) To propose funding that may be needed from the North Carolina Rural Redevelopment Authority established in Part 2D of this Article and from other appropriate sources for incentives for the private sector to make necessary investments to achieve the Authority's goals and objectives.

(3) To set specific targets and milestones to achieve the goals and objectives set out in subsection (c) of this section.

(c) Goals. -- The goals and objectives of the Authority are:

(1) Local dial-up Internet access provided from every telephone exchange within one year.

(2) High-speed Internet access available to every citizen of North Carolina within three years, at prices in rural counties that are comparable to prices in urban North Carolina.

(3) Two model Telework Centers in either enterprise tier one or enterprise tier two area established by January 1, 2002. To the extent practicable, the Centers should be established in existing facilities.

(4) Significant increases in ownership of computers, related web devices, and Internet subscriptions promoted throughout North Carolina.

(5) Accurate, current, and complete information provided through the Internet to citizens about the availability of present telecommunications and Internet services with periodic updates on the future deployment of new telecommunications and Internet services.

(6) Development of government Internet applications promoted to make citizen interactions with government agencies and services easier and more convenient and to facilitate the delivery of more comprehensive programs, including training, education, and health care.

(7) Open technology approaches employed to encourage all potential providers to participate in the implementation of high-speed Internet access with no technology bias.

(8) To coordinate activities, conduct and sponsor research, and recommend and advocate actions, including regulatory and legislative actions to achieve its goals and objectives.

(d) Limitations. -- The Authority does not have the power of eminent domain or the power to levy any tax.

(e) Reports. -- The Authority must submit quarterly reports to the Governor, the Joint Select Committee on Information Technology, and the Joint Legislative Commission on Governmental Operations. The reports must summarize the Authority's activities during the quarter and contain any information about the Authority's activities that is requested by the Governor, the Committee, or the Commission."

Section 2. G.S. 120-123 is amended by adding a new subdivision to read:

"(71) The North Carolina Rural Internet Access Authority created in Part 2E of Article 10 of Chapter 143B of the General Statutes."

Section 3. Each regional partnership, as defined in G.S. 143B-437.21, shall, with the assistance of the North Carolina Rural Economic Development Center, study the information technology infrastructure and information technology needs of each county within its particular region. Each study shall include an inventory of existing

information technology infrastructure, an inventory of information technology needs, an analysis of how the information technology needs affect industrial and business recruitment, and recommendations that address the information technology needs of each region. In conducting the studies required by this section, the regional partnerships shall consider the findings of the Connect NC study. The regional partnerships may contract with the North Carolina Rural Economic Development Center as needed to undertake these studies. No later than November 1, 2001, each regional partnership shall report the results of its study, including any legislative proposals, to the Joint Select Committee on Information Technology.

Section 4. This act does not obligate the General Assembly to appropriate funds.

Section 5. This act is effective when it becomes law. The North Carolina Rural Internet Access Authority created in this act is dissolved effective December 31, 2003. This act is repealed effective December 31, 2003. Part 2E of Article 10 of Chapter 143B of the General Statutes and G.S. 120-123(71), as enacted by this act, are repealed effective December 1, 2003.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law upon approval of the Governor at 9:24 a.m. on the 2nd day of August, 2000.

S.B. 1341 **SESSION LAW 2000-150**

AN ACT TO PREVENT INAPPROPRIATE DEVELOPMENT IN THE ONE HUNDRED-YEAR FLOODPLAIN AND TO REDUCE FLOOD HAZARDS.

Whereas, the hurricanes and associated flooding experienced in Eastern North Carolina in 1999 caused billions of dollars in damage; and

Whereas, some of the structural damage resulting from the floods could have been prevented by requiring development in the floodplain to be elevated above the 100-year floodplain; and

Whereas, harm to the environment could have been minimized by prohibiting certain inappropriate uses in the floodplain; and

Whereas, loss of life and property could have been reduced by preventing certain types of development in the floodplain; and

Whereas, future loss of life and property can be reduced by more effective enforcement of floodplain management regulations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Part 6 of Article 21 of Chapter 143 of the General Statutes reads as rewritten:

"Part 6. ~~Floodway~~ Floodplain Regulation.

"*§ 143-215.51. ~~Preamble.~~ Purposes.*

The ~~purpose~~ purposes of this Part ~~is to specify means for regulation of artificial obstructions in floodways.~~ are to:

(1) Minimize the extent of floods by preventing obstructions that inhibit water flow and increase flood height and damage.

(2) Prevent and minimize loss of life, injuries, property damage, and other losses in flood hazard areas.

(3) Promote the public health, safety, and welfare of citizens of North Carolina in flood hazard areas.

~~It is hereby declared that the channel and a portion of the floodplain of all the State's streams will be designated as a floodway, in which artificial obstructions may not be placed except in accordance with the provisions of this Part. The purpose of designating these areas as a floodway is to help control and minimize the extent of floods by preventing obstructions which inhibit water flow and increase flood height and damage, and thereby to prevent and minimize loss of life, injuries, property damage and other losses (both public and private) in flood hazard areas, and to promote the public health, safety and welfare of citizens of North Carolina in flood hazard areas.~~

"§ *143-215.52. Definitions.*

(a) As used in this ~~Part, unless the context otherwise requires:~~ Part:

(1) 'Artificial obstruction' means any obstruction ~~which~~ to the flow of water in a stream that is not a natural obstruction, including any ~~which,~~ that, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of the stream.

(1a) 'Base flood' or '100-year flood' means a flood that has a one percent (1%) chance of being equaled or exceeded in any given year. The term 'base flood' is used in the National Flood Insurance Program to indicate the minimum level of flooding to be addressed by a community in its floodplain management regulations.

(1b) 'Base floodplain' or '100-year floodplain' means that area subject to a one percent (1%) or greater chance of flooding in any given year, as shown on the current floodplain maps prepared pursuant to the National Flood Insurance Program or approved by the Department.

(1c) 'Department' means the Department of Crime Control and Public Safety.

(1d) 'Flood hazard area' means the area designated by a local government, pursuant to this Part, as an area where development must be regulated to prevent damage from flooding. The flood hazard area must include and may exceed the base floodplain.

~~(2) 'Floodway' means that portion of the channel and floodplain of a stream designated to provide passage for the 100-year flood, without increasing the elevation of that flood at any point by more than one foot.~~

(3) 'Local government' means any county or ~~municipal corporation.~~ city, as defined in G.S. 160A-1.

(3a) 'Lowest floor', when used in reference to a structure, means the lowest enclosed area, including a basement, of the structure. An unfinished or flood resistant enclosed area, other than a basement, that is usable solely for parking vehicles, building access, or storage is not a lowest floor.

(4) 'Natural obstruction' includes any rock, tree, gravel, or ~~analogous~~ other natural matter that is an obstruction and has been located within the ~~floodway~~ 100-year floodplain by a nonhuman cause.

(4b) 'Secretary' means the Secretary of Crime Control and Public Safety.

(5) 'Stream' means a watercourse that collects surface runoff from an area of one square mile or greater. ~~This does not include flooding due to tidal or storm surge on estuarine or ocean waters.~~

(6) 'Structure' means a walled or roofed building, including a mobile home and a gas or liquid storage tank.

(b) As used in this Part, the terms 'artificial obstruction' and 'structure' do not include any of the following:

(1) An electric generation, distribution, or transmission facility.

(2) A gas pipeline or gas transmission or distribution facility, including a compressor station or related facility.

(3) A water treatment or distribution facility, including a pump station.

(4) A wastewater collection or treatment facility, including a lift station.

(5) Processing equipment used in connection with a mining operation.

~~*"§ 143-215.53. Artificial obstruction prohibited.*~~

~~The placement of any artificial obstruction in the floodway of any stream after the floodway has been delineated pursuant to G.S. 143-215.56 is hereby prohibited, except as set forth in G.S. 143-215.54, unless a permit has been obtained for such artificial obstruction from the responsible local government. No damageable portion of a structure located outside the floodway may be below the elevation that would be attained by the 100-year flood if the stream were contained within the floodway.~~

"§ 143-215.54. ~~Floodway uses.~~ Regulation of flood hazard areas; prohibited uses.

(a) ~~Local governments are empowered to~~ A local government may adopt ordinances to regulate uses in flood hazard areas and grant permits for the use of ~~the floodways~~ flood hazard areas that are consistent with the ~~purposes~~ requirements of this ~~Part and for purposes which the State does not regulate either by a permit or a formal approval system.~~ Part.

(b) The following uses may be made of ~~floodways as a matter of right~~ flood hazard areas without a permit issued under this ~~Part.~~ Part, provided that these uses comply with local land-use ordinances and any other applicable laws or regulations:

(1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, mining, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses;

(2) Ground level loading areas, parking areas, rotary aircraft ports and other similar ground level area uses;

(3) Lawns, gardens, play areas and other similar uses;

(4) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, hiking or horseback riding trails, open space and other similar private and public recreational uses.

(5) Land application of waste at agronomic rates consistent with a permit issued under Part 1 or Part 1A of Article 21 of Chapter 143 of the General Statutes or an approved animal waste management plan.

(6) Land application of septage consistent with a permit issued under G.S. 130A-291.1.

(c) New solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities are prohibited in the 100-year floodplain except as authorized under G.S. 143-215.54A(b).

"*§ 143-215.54A. Minimum standards for ordinances; variances for prohibited uses.*

(a) A flood hazard prevention ordinance adopted by a county or city pursuant to this Part shall, at a minimum:

(1) Meet the requirements for participation in the National Flood Insurance Program and of this section.

(2) Prohibit new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities in the 100-year floodplain except as authorized under subsection (b) of this section.

(3) Provide that a structure or tank for chemical or fuel storage incidental to a use that is allowed under this section or to the operation of a water treatment plant or wastewater treatment facility may be located in a 100-year floodplain only if the structure or tank is either elevated above base flood elevation or designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(b) A flood hazard prevention ordinance may include a procedure for granting variances for uses prohibited under G.S. 143-215.54(c). A county or city shall notify the Secretary of its intention to grant a variance at least 30 days prior to granting the variance. A county or city may grant a variance upon finding that all of the following apply:

(1) The use serves a critical need in the community.
(2) No feasible location exists for the location of the use outside the 100-year floodplain.
(3) The lowest floor of any structure is elevated above the base flood elevation or is designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
(4) The use complies with all other applicable laws and regulations.

"§ *143-215.55.* ~~*Existing artificial obstructions.*~~ *Acquisition of existing structures.*

~~Artificial obstructions existing in a floodway on July 1, 1971, shall not be considered to be in violation of this Part. However, they may not be enlarged or replaced in part or in whole, without a permit, as provided by this Part in the case of a proposed artificial obstruction. Local governments are empowered to~~ A local government may acquire, by purchase, exchange, or condemnation ~~such existing artificial obstructions if deemed necessary by the responsible local government for the purpose of avoiding flood damages.~~ an existing structure located in a flood hazard area in the area regulated by the local government if the local government determines that the acquisition is necessary to prevent damage from flooding. The procedure in all condemnation proceedings pursuant to this section shall conform as nearly as possible to the procedure provided in Article 3 of Chapter 40A of the General Statutes.

"§ *143-215.56. Delineation of* ~~*floodway;*~~ *flood hazard areas and 100-year floodplains; powers of* ~~*Commission and*~~ *Department; powers of local* ~~*governments.*~~ *governments and of the Department.*

(a) For the purpose of delineating ~~the floodway~~ a flood hazard area and evaluating the possibility of flood damages, ~~responsible local governments are empowered to:~~ a local government may:

(1) Request technical assistance from the competent State and federal agencies, including the Army Corps of Engineers, the ~~Soil Conservation Service,~~ Natural Resource Conservation Service, the Tennessee Valley Authority, the Federal Emergency Management Agency, the North Carolina Department of Crime Control and Public Safety, the North Carolina Geodetic Survey, the North Carolina Geological Survey, and the U.S. Geological Survey, or successor ~~agencies, and~~ agencies.
(2) Utilize the reports and data supplied by federal and State agencies as the basis for the exercise by local ordinance or resolution of the powers and responsibilities conferred on responsible local governments by this Part.

(b) The Department ~~shall be empowered to render~~ shall provide advice and assistance to any local government having responsibilities under this Part. In exercising this function ~~it shall specifically be authorized to~~ the Department may furnish manuals, suggested

standards, plans, and other technical data; ~~to~~ conduct training programs; ~~and to~~ give advice and assistance with respect to ~~handling of particular applications;~~ delineation of flood hazard areas and the development of appropriate ordinances; ~~but it shall not be limited to such activities.~~ and provide any other advice and assistance that the Department deems appropriate. The Department shall send a copy of every rule adopted to implement this Part to the governing body of each local government in the State.

(c) A local government may delineate any ~~floodway~~ flood hazard area subject to its regulation by showing it on a map or drawing, by a written description, or any combination thereof, to be designated appropriately and filed permanently with the clerk of superior court and with the register of deeds in the county where the land lies. A local government may also delineate a flood hazard area by reference to a map prepared pursuant to the National Flood Insurance Program. ~~The Commission may delineate a floodway, in the same manner and subject to the same requirement, when the reach of a stream in which a floodway is determined by the Commission to be needed exceeds the jurisdiction of a single local government.~~ Alterations in the lines delineated shall be indicated by appropriate entries upon or addition to ~~such map~~ the appropriate map, drawing, or description. ~~Such entries~~ Entries or additions shall be made by or under the direction of the clerk of superior court. Photographic, typed or other copies of ~~such map~~ the map, drawing, or description, certified by the clerk of superior court, shall be admitted in evidence in all courts and shall have the same force and effect as would the original map or description. A local government ~~or the Commission~~ may provide for the redrawing of any ~~such~~ map. A redrawn map shall supersede for all purposes the earlier map or maps ~~which~~ that it is designated to replace upon the filing and approval thereof as designated and provided above.

(d) ~~If the Commission determines that the floodway of any stream or stream segment should be delineated and the use thereof controlled as provided in this Part, and the local governments within which the stream or segment lies have not delineated the floodway or controlled uses therein, the Commission shall advise the local governments of its intent to delineate the floodway, and it shall be the responsibility of the local governments to control uses therein. At least 30 days prior to the effective date of a rule of the Commission establishing any floodway, notice of the effective date and copies of the rule shall be delivered to every affected local government along with copies of all maps and plans delineating the floodway. Public notice of the rule shall be given at least 30 days prior to the effective date by publication of a notice once a week for two successive weeks in a newspaper or newspapers having general circulation in the county or counties in which each affected local government lies and by posting a copy of the notice at the courthouse of each such county, along with a sketch map showing the stream or stream segment affected. The notice shall be adequate to apprise all interested persons of the nature of the rules,~~

~~the effective date thereof, the stream or stream segment affected, and the manner in which more detailed information may be secured.~~ The Department may prepare a floodplain map that identifies the 100-year floodplain and base flood elevations for an area for the purposes of this Part if all of the following conditions apply:

(1) The 100-year floodplain and base flood elevations for the area are not identified on a floodplain map prepared pursuant to the National Flood Insurance Program within the previous five years.

(2) The Department determines that the 100-year floodplain and the base flood elevations for the area need to be identified and the use of the area regulated in accordance with the requirements of this Part in order to prevent damage from flooding.

(3) The Department prepares the floodplain map in accordance with the federal standards required for maps to be accepted for use in administering the National Flood Insurance Program.

(e) Prior to preparing a floodplain map pursuant to subsection (d) of this section, the Department shall advise each local government whose jurisdiction includes a portion of the area to be mapped.

(f) Upon completing a floodplain map pursuant to subsection (d) of this section, the Department shall both:

(1) Provide copies of the floodplain map to every local government whose jurisdiction includes a portion of the 100-year floodplain identified on the floodplain map.

(2) Submit the floodplain map to the Federal Emergency Management Agency for approval for use in administering the National Flood Insurance Program.

(g) Upon approval of a floodplain map prepared pursuant to subsection (d) of this section by the Federal Emergency Management Agency for use in administering the National Flood Insurance Program, it shall be the responsibility of each local government whose jurisdiction includes a portion of the 100-year floodplain identified in the floodplain map to incorporate the revised map into its floodplain ordinance.

"*§ 143-215.57. Procedures in issuing permits.*

(a) ~~Responsible local governments are empowered to~~ A local government may establish application forms and require ~~such~~ maps, plans, and other information ~~as~~ necessary for the issuance of permits in a manner consonant with the objectives of this Part. For this purpose a local government may take into account anticipated development in the foreseeable future that may be adversely affected by the obstruction, as well as existing development. They shall consider the effects of a proposed artificial obstruction in a ~~floodway~~ stream in creating danger to life and property by:

(1) ~~By water which~~ Water that may be backed up or diverted by ~~such obstruction;~~ the obstruction.

(2) ~~By the~~ The danger that the obstruction will be swept downstream to the injury of ~~others; and~~ others.

(3) ~~By the~~ The injury or damage at the site of the obstruction itself.

~~For this purpose they may take into account anticipated development in the foreseeable future which may be adversely affected by the obstruction, as well as existing development.~~

(b) In prescribing standards and requirements for the issuance of permits under this ~~Part,~~ Part and in issuing ~~such~~ permits, ~~responsible~~ local governments shall proceed as in the case of an ordinance for the better government of the county or ~~municipality,~~ city as the case may be. A ~~municipality~~ city may exercise the powers granted in this Part not only within its corporate boundaries but also within the area of its extraterritorial zoning jurisdiction. A county may exercise the powers granted in this Part at any place within the county that is outside the zoning jurisdiction of ~~any municipalities~~ a city in the county. If a city does not exercise the powers granted in this Part in the city's extraterritorial zoning jurisdiction, the county may exercise the powers granted in this Part in the city's extraterritorial zoning jurisdiction. The county may regulate territory within the zoning jurisdiction of any ~~municipality~~ city whose governing body, by resolution, agrees to ~~such regulation; provided, however, that any such~~ the regulation. ~~municipal~~ The governing body of a city may, upon one year's written notice, withdraw its approval of the county regulations, and those regulations shall have no further effect within the ~~municipality's~~ city's jurisdiction.

(c) The local governing body is hereby empowered to adopt ~~such~~ regulations ~~as~~ it may deem necessary concerning the form, time, and manner of submission of applications for permits under this Part. ~~Such~~ These regulations may provide for the issuance of permits under this Part by the local governing body or by ~~such~~ an agency ~~as may be~~ designated by ~~said~~ the local governing body, as prescribed by the governing body. Every final decision granting or denying a permit under this Part shall be subject to review by the superior court of the county, with the right of jury trial at the election of the party seeking review. The time and manner of election of a jury trial shall be governed by G.S. 1A-1, Rule 38(b) of the Rules of Civil Procedure. Pending the final disposition of ~~any such~~ an appeal, no action shall be taken ~~which~~ that would be unlawful in the absence of a permit issued under this Part.

"§ *143-215.58. Violations and penalties.*

(a) Any willful violation of this Part or of any ordinance adopted (or of the provisions of any permit issued) under the authority of this Part shall constitute a Class 1 misdemeanor.

(a1) A local government may use all of the remedies available for the enforcement of ordinances under Chapters 153A and 160A of the General Statutes to enforce an ordinance adopted pursuant to this Part.

(b) Failure to remove any artificial obstruction or enlargement or replacement thereof, that violates this Part or any ordinance adopted

(or the provision of any permit issued) under the authority of this Part, shall constitute a separate violation of this Part for each ~~10 days~~ day that ~~such~~ the failure continues after written notice from the county board of commissioners or ~~municipal governing body.~~ governing body of a city.

(c) In addition to or in lieu of other remedies, the county board of commissioners or ~~municipal~~ governing body of a city may institute any appropriate action or proceeding to restrain or prevent any violation of this Part or of any ordinance adopted (or of the provisions of any permit issued) under the authority of this Part, or to require any person, firm or corporation ~~which~~ that has committed ~~any such~~ a violation to remove a violating obstruction or restore the conditions existing before the placement of the obstruction.

"§ *143-215.59. Other approvals required.*

(a) The granting of a permit under the provisions of this Part shall in no way affect any other type of approval required by any other statute or ordinance of the State or any political subdivision of the State, or of the United States, but shall be construed as an added requirement.

(b) No permit for the construction of any structure to be located within a ~~floodway~~ flood hazard area shall be granted by a political subdivision unless the applicant has first obtained the permit required by any local ordinance adopted pursuant to this Part.

"§ *143-215.60. Liability for damages.*

No action for damages sustained because of injury or property damage caused by ~~an~~ a structure or obstruction for which a permit has been granted under this Part shall be brought against the State or any political subdivision of the State, or their employees or agents.

"§ *143-215.61. Floodplain management.*

The provisions of this Part shall not preclude the imposition by responsible local governments of land use controls and other regulations in the interest of floodplain management for the ~~floodplain or the floodway.~~ 100-year floodplain."

Section 2. G.S.159G-10(b)(1) reads as rewritten:

"(b) Priority Factors. -- All applications for revolving loans or grants under this Chapter eligible for consideration during each priority period shall be assigned a priority for ~~such~~ funds by the receiving agency. The priority factors shall be similar to those developed under the North Carolina Clean Water Bond Act of 1977, as provided in and modified by this subsection.

(1) General Criteria. --

a. The general criteria provided in 1 NCAC 22.0401 through .0403 on January 1, 1987, shall apply, except that 1 NCAC 22.0401(c) shall apply only to State funds appropriated to match available federal funds.

b. The existence of a comprehensive land-use plan that meets the requirements of subsection (e) of this section is a general criterion for prioritizing which applicants will receive a loan or grant. An applicant that is not

authorized to adopt a comprehensive land-use plan but that is located in whole or in part in a local government unit that has adopted a comprehensive land-use plan shall receive the same priority treatment as an applicant that has authority to adopt a comprehensive land-use plan. A comprehensive land-use plan that meets the requirements of subsection (e) of this section and that exceeds the minimum State standards for protection of water resources shall receive more points than a plan that does not exceed those standards. Additional points may be awarded for actions taken toward implementation of a comprehensive land-use plan. These actions may include the adoption of a zoning ordinance or any other measure that significantly contributes to the implementation of the comprehensive land-use plan.

c. The existence of a flood hazard ordinance conforming to the requirements of Part 6 of Article 21 of Chapter 143 of the General Statutes is a general criterion for prioritizing which applicants will receive a loan or a grant. Demonstration, based on the most recent maps prepared pursuant to the National Flood Insurance Program or approved by the Department, that no portion of the applicant's jurisdiction is located within the 100-year floodplain is a general criterion equivalent to the existence of a flood hazard ordinance conforming to the requirements of Part 6 of Article 21 of Chapter 143 of the General Statutes for prioritizing which applicants will receive a loan or a grant."

Section 3. The Environmental Review Commission shall study the need to increase minimum elevation requirements for structures that are located in floodplains, to increase the authority of the Secretary of Crime Control and Public Safety to enforce Part 6 of Article 21 of Chapter 143 of the General Statutes, as amended by Section 1 of this act, to increase protection against the potential recurrence of damage to public and private property that resulted from the hurricanes of 1999, and other measures to reduce the likelihood that public assistance will be needed in response to future hurricanes and other storm events. The Environmental Review Commission shall report its findings and recommendations, including any proposed legislation, to the 2001 General Assembly.

Section 4. The Environmental Management Commission shall study the impacts of development in the river basins of the State on the volume and intensity of stormwater flow and on the resulting intensity, frequency, and duration of flood events. As a part of its study and recommendations, the Commission shall specifically consider means to reduce or eliminate present and future impacts of development. The Environmental Management Commission shall report its findings and recommendations, including any proposed legislation to the Environmental Review Commission no later than 15 February 2001.

Section 5. Sections 1, 3, 4, and 5 of this act are effective when this act becomes law. Section 2 of this act becomes effective 1 July 2001 and applies to loans and grants made on or after that date.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 9:25 a.m. on the 2nd day of August, 2000.

S.B. 1542 **SESSION LAW 2000-151**

AN ACT TO BAN THE INTRODUCTION OF NEW VIDEO GAMING MACHINES INTO THIS STATE, TO LIMIT THE NUMBER OF VIDEO GAMING MACHINES PER LOCATION, TO PROVIDE FOR REGISTRATION OF MACHINES, INCREASING CRIMINAL PENALTIES FOR VIOLATION, PROVIDING FOR SUSPENSION OR REVOCATION OF LICENSES FOR VIOLATION, AND PROVIDING FOR SEIZURE OF UNLAWFUL VIDEO GAMING MACHINES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding a new section to read:

"*§ 14-306.1. Types of machines and devices prohibited by law; penalties.*

(a) Ban on New Machines. -- It shall be unlawful for any person to operate, allow to be operated, place into operation, or keep in that person's possession for the purpose of operation any video gaming machine as defined in subsection (c) of this section unless either:

(1) Such machine was:

a. Lawfully in operation, and available for play, within this State on or before June 30, 2000; and

b. Listed in this State by January 31, 2000 for ad valorem taxation for the 2000-2001 tax year; or

(2) Such machine is within the scope of the exclusion provided in G.S. 14-306(b)(1).

(b) Prohibition of More Than Three Existing Video Gaming Machines at One Location. -- It shall be unlawful for any person to operate, allow to be operated, place into operation, or keep in that person's possession for the purpose of operation at one location more than three video gaming machines as defined in subsection (c).

(c) Definitions. -- As used in this section, a video gaming machine means a slot machine as defined in G.S. 14-306(a) and other forms of electrical, mechanical, or computer games such as by way of illustration:

(1) A video poker game or any other kind of video playing card game.

(2) A video bingo game.

(3) A video craps game.

(4) A video keno game.

(5) A video lotto game.
(6) Eight liner.
(7) Pot-of-gold.
(8) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.

For the purpose of this section, a video gaming machine is a video machine which requires deposit of any coin, token, or use of any credit card, debit card, or any other method that requires payment to activate play of any of the games listed in this subsection. The enumeration of games in the list in this subsection does not authorize the possession or operation of such game if it is otherwise prohibited by law.

For the purpose of this section, a video gaming machine includes those that are within the scope of the exclusion provided in G.S. 14-306(b)(2), but does not include those that are within the scope of the exclusion provided in G.S. 14-306(b)(1).

(c1) Age Requirement. -- It shall be an infraction for any person under the age of 18 years to play any video gaming machine defined in subsection (c) of this section. It shall be unlawful for the operator of the video gaming machine to knowingly allow a person under the age of 18 years to play any video gaming machine as proscribed by this subsection.

(c2) Hours of Operation. -- It shall be unlawful to operate or allow the operation of any video gaming machine during the hours of 2:00 A.M. Sunday through 7:00 A.M. Monday.

(c3) Plain View. -- Any video gaming machine available for operation shall be in plain view of persons visiting the premises.

(c4) Advertising Prohibited. -- It is unlawful to advertise the operation of video gaming machines by use of on-premise or off-premise signs.

(d) Proximity to Other Locations Regulated; Permanent Building Required. -- Each location where it is lawful to operate any video gaming machines as defined in G.S. 14-306.1(c) shall be at least 300 feet in any plane from any other location where such machines are operated. For the purpose of this section, a location is a permanent building having, or being within, a single exterior structure. Notwithstanding this subsection, two or more places where video gaming machines were lawfully operated under separate ownership on June 30, 2000, shall be considered to be separate locations more than 300 feet from each other, regardless of the distance from each other or whether they are located in the same building or edifice. Video gaming machines as defined in G.S. 14-306.1(c) may be operated only within permanent buildings.

(e) Registration With Sheriff. -- No later than October 1, 2000, the owner of any video game which is regulated by this section shall register the machine with the Sheriff of the county in which the machine is located using a standardized registration form supplied by the Sheriff. The registration form shall be signed under oath by the

owner of the machine. A material false statement in the registration form shall subject the owner to seizure of the machine under G.S. 14-298 in addition to any other punishment imposed by law. At any time that the video gaming machine is moved to a different location, the owner shall reregister the machine with the Sheriff prior to its being placed in operation. At a minimum, the registration form shall require that the registrant provide evidence of the date on which the machine was placed in operation, the serial number of the machine, the location of the facility at which the machine is operated, and the name of the owner of the facility at which the machine is operated. Each Sheriff shall report to the Joint Legislative Commission on Governmental Operations no later than November 1, 2000, on the total number of machines registered in that county, itemizing how many locations have one, two, or three machines.

(e1) Report on Receipts and Prizes and Merchandise Awarded. -- The owner of each machine or the agent of that owner shall report each calendar quarter to the Department of Revenue, under oath on a form provided by that Department, the total amount of gross receipts itemized by each machine, the number of machines at that location, and the total value of prizes and merchandise awarded to players of each machine at that location. The report shall be filed by the fifteenth day of the month after the quarter ends. Failure of the owner or agent to timely file the required report, or filing a report containing a material false statement shall subject the owner of the machine to seizure of the machine under G.S. 14-298 in addition to any other punishment imposed by law. Upon request of the Sheriff of the county, the Department of Revenue shall forward a copy of the report to the Sheriff of the county where the machines are located. The Department of Revenue shall compile the reports and make a summary report each quarter to the Joint Legislative Commission on Governmental Operations.

(f) Report to 2001 Session. -- The North Carolina Sheriffs' Association, Inc., after consultation with the Division of Alcohol Law Enforcement, and the Conference of District Attorneys of North Carolina, shall report to the Joint Legislative Commission on Governmental Operations no later than January 1, 2001, its estimates of the costs of the registration process and the cost of enforcement of this section, along with suggested fees to make the registration and enforcement self-supporting, and recommendations as to a system with registration at the State level and primary enforcement at the local level. Such fee schedule is not effective until approved by the General Assembly.

(g) Exemption for Certain Machines. -- This section shall not apply to assemblers, manufacturers, and transporters of video gaming machines who assemble, manufacture, and transport them for sale in another state as long as the machines, while located in this State, cannot be used to play the prohibited games, and does not apply to those who assemble, manufacture, and sell such machines for the use only by a federally recognized Indian Tribe if such machines may be

lawfully used on Indian Land under the Indian Gaming Regulatory Act.

(h) Ban on Warehousing. -- It is unlawful to warehouse any video gaming machine except in conjunction with the permitted assembly, manufacture, and transportation of such machines under subsection (g) of this section.

(i) Exemption for Activities Under IGRA. -- This section does not make any activities of a federally recognized Indian Tribe unlawful or against public policy, which are lawful for any federally recognized Indian Tribe under the Indian Gaming Regulatory Act, Public Law 100-497.

(j) No Local Preemption. -- This section does not preempt any more restrictive ordinance lawfully adopted under Article 18 of Chapter 153A of the General Statutes or under Article 19 of Chapter 160A of the General Statutes.

(k) No person who has been convicted:

(1) Once under G.S. 14-309(a) may possess any video gaming machine as defined in G.S. 14-306.1 for a period of one year.

(2) Twice under G.S. 14-309(a) may possess any video gaming machine as defined in G.S. 14-306.1 for a period of two years.

(3) Three or more times under G.S. 14-309(a) may possess any video gaming machine.

(l) Not Legalizing Unlawful Activity. -- This section does not make lawful any activity which is currently unlawful."

Section 2. Chapter 14 of the General Statutes is amended by adding a new section to read:

"*§ 14-306.2. Violation of G.S. 14-306.1 a violation of the ABC laws.*

A violation of G.S. 14-306.1 is a violation of the gambling statutes for the purposes of G.S. 18B-1005(a)(3)."

Section 3. G.S. 14-309 reads as rewritten:

"*§ 14-309. Violation made ~~misdemeanor.~~ criminal.*

(a) Any person who violates any provision of G.S. 14-304 through 14-309 is guilty of a ~~Class 2 misdemeanor.~~ Class 1 misdemeanor for the first offense, and is guilty of a Class I felony for a second offense and a Class H felony for a third or subsequent offense.

(b) Notwithstanding the provisions of subsection (a) of this section, any person violating the provisions of G.S. 14-306.1 involving the operation of five or more machines prohibited by that section is guilty of a Class G felony."

Section 4. G.S. 14-306 reads as rewritten:

"*§ 14-306. Slot machine or device defined.*

(a) Any machine, apparatus or device is a slot machine or device within the provisions of G.S. 14-296 through 14-309, if it is one that is adapted, or may be readily converted into one that is adapted, for use in such a way that, as a result of the insertion of any piece of money or coin or other object, such machine or device is caused to operate or may be operated in such manner that the user may receive

or become entitled to receive any piece of money, credit, allowance or thing of value, or any check, slug, token or memorandum, whether of value or otherwise, or which may be exchanged for any money, credit, allowance or any thing of value, or which may be given in trade, or the user may secure additional chances or rights to use such machine, apparatus or device; or any other machine or device designed and manufactured primarily for use in connection with gambling and which machine or device is classified by the United States as requiring a federal gaming device tax stamp under applicable provisions of the Internal Revenue Code. This definition is intended to embrace all slot machines and similar devices except slot machines in which is kept any article to be purchased by depositing any coin or thing of value, and for which may be had any article of merchandise which makes the same return or returns of equal value each and every time it is operated, or any machine wherein may be seen any pictures or heard any music by depositing therein any coin or thing of value, or any slot weighing machine or any machine for making stencils by the use of contrivances operated by depositing in the machine any coin or thing of value, or any lock operated by slot wherein money or thing of value is to be deposited, where such slot machines make the same return or returns of equal value each and every time the same is operated and does not at any time it is operated offer the user or operator any additional money, credit, allowance, or thing of value, or check, slug, token or memorandum, whether of value or otherwise, which may be exchanged for money, credit, allowance or thing of value or which may be given in trade or by which the user may secure additional chances or rights to use such machine, apparatus, or device, or in the playing of which the operator does not have a chance to make varying scores or tallies.

(b) The definition contained in ~~the first paragraph~~ subsection (a) of this section and G.S. 14-296, 14-301, 14-302, and 14-305 does not include coin-operated machines, video games, pinball machines, and other computer, electronic or mechanical ~~and~~ devices that are operated and played for amusement, ~~used for amusement. Included within this exception are pinball machines, video games, and other mechanical devices~~ that involve the use of skill or dexterity to solve problems or tasks or to make varying scores or tallies and ~~which, in~~ that:

(1) Do not emit, issue, display, print out, or otherwise record any receipt, paper, coupon, token, or other form of record which is capable of being redeemed, exchanged, or repurchased for cash, cash equivalent, or prizes, or award free replays; or

(2) In actual operation, limit to eight the number of accumulated credits or replays that may be played at one time and which may award free replays or paper coupons that may be exchanged for prizes or merchandise with a value not exceeding ten dollars ($10.00), but may not be exchanged or converted to money.

(c) Any video machine, the operation of which is made lawful by subsection (b)(2) of this section, shall have affixed to it in view of the player a sticker informing that person that it is a criminal offense with the potential of imprisonment to pay more than that which is allowed by law. In addition, if the machine has an attract chip which allows programming, the static display shall contain the same message.

(d) The exception in subsection (b)(2) of this section does not apply to any machine that pays off in cash. The exemption in subsection (b)(2) of this section does not apply where the prizes, merchandise, credits, or replays are (i) repurchased for cash or rewarded by cash, (ii) exchanged for merchandise of a value of more than ten dollars ($10.00), or (iii) where there is a cash payout of any kind, by the person operating or managing the machine or the premises, or any agent or employee of that person. It is also a criminal offense, punishable under G.S. 14-309, for the person making the unlawful payout to the player of the machine to violate this section, in addition to any other person whose conduct may be unlawful."

Section 5. G.S. 14-298 reads as rewritten:

"*§ 14-298. Gaming tables, illegal punchboards and slot machines to be destroyed by police officers.*

All sheriffs and officers of police are hereby authorized and directed, on information made to them on oath that any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, ~~or~~ any illegal punchboard or illegal slot ~~machine~~ machine, or any video game machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1, is in the possession or use of any person within the limits of their jurisdiction, to destroy the same by every means in their power; and they shall call to their aid all the good citizens of the county, if necessary, to effect its destruction."

Section 6. The Legislative Research Commission shall study the implementation of this act and recommend any changes it deems necessary in order to strengthen this act. Notwithstanding G.S. 120-30.11, the Commission may make its report under this section to the 2001 General Assembly no later than April 1, 2001.

Section 6.1. The Department of Revenue may draw from collections under Article 4 of Chapter 105 of the General Statutes for the 2000-2001 fiscal year its actual costs of implementing G.S. 14-306.1(e1) as enacted by this act.

Section 7. The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of this act that can be given effect without the invalid provision.

Section 8. This act becomes effective October 1, 2000, except that:

(1) G.S. 14-306.1(a), (c), (e), (i), (j), and (l) are effective when this act becomes law. Section 4 of this act, other than subsections (c) and (d), are effective when this act becomes law. G.S. 14-306.1(h) becomes effective 30 days after this bill becomes law.

(2) Section 3 of this act and G.S. 14-306(c) and (d) as added by Section 4 of this act become effective with respect to offenses committed on or after October 1, 2000, except as to a violation of G.S. 14-306.1(a), they are effective when they become law.

(3) Sections 5 through 8 of this act are effective when they become law.

(4) The first report under G.S. 14-306.1(e1) is for the first quarter of calendar year 2001, due April 15, 2001.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 9:26 a.m. on the 2nd day of August, 2000.

S.B. 1266 **SESSION LAW 2000-152**

AN ACT TO ADOPT THE UNIFORM ELECTRONIC TRANSACTIONS ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 40.

"Uniform Electronic Transactions Act.

"§ *66-308. Short title.*

This Article may be cited as the Uniform Electronic Transactions Act.

"§ *66-308.1. Definitions.*

As used in this Article, unless the context clearly requires otherwise, the term:

(1) 'Agreement' means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(2) 'Automated transaction' means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(3) 'Computer program' means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(4) 'Consumer transaction' means a transaction involving a natural person with respect to or affecting primarily personal, household, or family purposes.

(5) 'Contract' means the total legal obligation resulting from the parties' agreement as affected by this Article and other applicable law.

(6) 'Electronic' means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(7) 'Electronic agent' means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

(8) 'Electronic record' means a record created, generated, sent, communicated, received, or stored by electronic means.

(9) 'Electronic signature' means an electronic sound, symbol, or process attached to, or logically associated with, a record and executed or adopted by a person with the intent to sign the record.

(10) 'Governmental agency' means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.

(11) 'Information' means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(12) 'Information processing system' means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(13) 'Person' means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(14) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) 'Security procedure' means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(16) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is

recognized by federal law or formally acknowledged by a state.

(17) 'Transaction' means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

"§ 66-308.2. *Scope.*

(a) Except as otherwise provided in subsections (b) and (c) of this section, this Article applies to electronic records and electronic signatures relating to a transaction.

(b) This Article does not apply to a transaction to the extent it is governed by:

(1) A law governing the creation and execution of wills, codicils, or testamentary trusts.

(2) Chapter 25 of the General Statutes other than G.S. 25-1-107 and G.S. 25-1-206, Article 2, and Article 2A.

(3) Article 11A of Chapter 66 of the General Statutes.

(c) This Article applies to an electronic record or electronic signature otherwise excluded from the application of this Article under subsection (b) of this section to the extent it is governed by a law other than those specified in subsection (b) of this section.

(d) A transaction subject to this Article is also subject to other applicable substantive law.

"<font=2<§ 66-308.3. Prospective application.

This Article applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after the effective date of this Article.

"§ 66-308.4. *Use of electronic records and electronic signatures; variation by agreement.*

(a) This Article does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This Article applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(c) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this subsection may not be waived by agreement.

(d) Except as otherwise provided in this Article, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of this Article of the words 'unless otherwise agreed', or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this Article and other applicable law.

"§ 66-308.5. *Construction and application.*

This Article must be construed and applied:

(1) To facilitate electronic transactions consistent with other applicable law;

(2) To be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and

(3) To effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

"§ *66-308.6. Legal recognition of electronic records, electronic signatures, and electronic contracts.*

(a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(c) If a law requires a record to be in writing, an electronic record satisfies the law provided it complies with the provisions of this Article.

(d) If a law requires a signature, an electronic signature satisfies the law provided it complies with the provisions of this Article.

"§ *66-308.7. Provision of information in writing; presentation of records.*

(a) If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

(b) If a law other than this Article requires a record (i) to be posted or displayed in a certain manner, (ii) to be sent, communicated, or transmitted by a specified method, or (iii) to contain information that is formatted in a certain manner, the following rules apply:

(1) The record must be posted or displayed in the manner specified in the other law.

(2) Except as otherwise provided in subdivision (d)(2) of this section, the record must be sent, communicated, or transmitted by the method specified in the other law.

(3) The record must contain the information formatted in the manner specified in the other law.

(c) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

(d) The requirements of this section may not be varied by agreement, but:

(1) To the extent a law other than this act requires information to be provided, sent, or delivered in writing, but permits that requirement to be varied by agreement, the requirement

under subsection (a) of this section that the information be in the form of an electronic record capable of retention may also be varied by agreement; and

(2) A requirement under a law other than this Article to send, communicate, or transmit a record by regular United States mail may be varied by agreement to the extent permitted by the other law.

"§ 66-308.8. Attribution and effect of electronic record and electronic signature.

(a) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under subsection (a) of this section is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

"§ 66-308.9. Effect of change or error.

If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

(1) If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

(2) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if, at the time the individual learns of the error, the individual:

a. Promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person;

b. Takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record; and

c. Has not used or received any benefit or value from the consideration, if any, received from the other person.

(3) If neither subdivision (1) nor subdivision (2) of this section applies, the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any.

(4) Subdivisions (2) and (3) of this section may not be varied by agreement.

"§ 66-308.10. *Notarization and acknowledgment.*

If a law requires a signature or record relating to a transaction to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

"§ 66-308.11. *Retention of electronic records; originals.*

(a) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

(1) Accurately reflects the information set forth in the record at the time it was first generated in its final form as an electronic record or otherwise; and

(2) Remains accessible for later reference.

(b) A requirement to retain a record in accordance with subsection (a) of this section does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

(c) A person may satisfy subsection (a) of this section by using the services of another person if the requirements of that subsection are satisfied.

(d) If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with subsection (a) of this section.

(e) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection (a) of this section.

(f) A record retained as an electronic record in accordance with subsection (a) of this section satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after the effective date of this Article specifically prohibits the use of an electronic record for the specified purpose.

(g) This section does not preclude a governmental agency of this State from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

"§ 66-308.12. *Admissibility in evidence.*

In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

"§ 66-308.13. *Automated transaction.*

In an automated transaction, the following rules apply:

(1) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

(2) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

(3) The terms of the contract are determined by the substantive law applicable to it.

"*§ 66-308.14. Time and place of sending and receipt.*

(a) Unless the sender and the recipient agree to a different method of sending that is reasonable under the circumstances, an electronic record is sent when it:

(1) Is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;

(2) Is in a form capable of being processed by that system; and

(3) Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(b) Unless the sender and the recipient agree to a different method of sending that is reasonable under the circumstances, an electronic record is received when:

(1) It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(2) It is in a form capable of being processed by that system.

(c) Subsection (b) of this section applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under subsection (d) of this section.

(d) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection, the following rules apply:

(1) If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.

(2) If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(e) Notwithstanding any other sections of this Article, in a consumer transaction, a record has not been received unless it is received by the intended recipient in a manner in which the sender has a reasonable basis to believe that the record can be opened and read by the recipient.

(f) Receipt of an electronic acknowledgment from an information processing system described in subsection (b) of this section establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(g) If a person is aware that an electronic record purportedly sent under subsection (a) of this section, or purportedly received under subsection (b) of this section, was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, the requirements of this subsection may not be varied by agreement.

"§ *66-308.15. Transferable records.*

(a) In this section, 'transferable record' means an electronic record that:

(1) Would be a note under Article 3 of Chapter 25 of the General Statutes or a document under Article 7 of Chapter 25 of the General Statutes if the electronic record were in writing; and

(2) The issuer of the electronic record expressly has agreed is a transferable record.

(b) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(c) A system satisfies subsection (b) of this section, and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in subdivisions (4), (5), and (6) of this subsection, unalterable;

(2) The authoritative copy identifies the person asserting control as:

a. The person to which the transferable record was issued; or

b. If the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(3) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in G.S. 25-1-201(20), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under Chapter 25 of the General Statutes, including, if the applicable statutory requirements under G.S. 25-3-302(a), 25-7-501, or 25-9-308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection.

(e) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under Chapter 25 of the General Statutes.

(f) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

"§ 66-308.16. Consumer transactions; alternative procedures for use or acceptance of electronic records or electronic signatures.

(a) Consistent with the provisions of Section 102(a)2A of the federal Electronic Signatures in Global and National Commerce Act, the use and acceptance of electronic records or electronic signatures in consumer transactions shall be subject to the requirements set out in this section. The requirements of this section may not be varied by agreement of the parties.

(b) Limitation. -- This Article shall not apply to:

(1) Any notice of the cancellation or termination of utility services, including water, heat, and power.

(2) Any notice of default, acceleration, repossession, foreclosure or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual.

(3) Any notice of the cancellation or termination of health insurance or benefits, or life insurance or benefits (excluding annuities).

(4) Any notice of the recall of a product, or material failure of a product that risks endangering health or safety.

(5) Any document required to accompany the transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials.

(c) Consent to Electronic Records. -- In a consumer transaction, the consumer's agreement to conduct a transaction by electronic means shall be evidenced as provided in G.S. 66-308.4, and in compliance with this section. The consumer's agreement to conduct the transaction by electronic means shall be found only when the following apply:

(1) The consumer has affirmatively consented to the use of electronic means, and the consumer has not withdrawn consent.

(2) The consumer, prior to consenting to the use of electronic means, is provided with a clear and conspicuous statement:

a. Informing the consumer of any right or option of the consumer to have the record provided or made available on paper or in nonelectronic form.

b. Informing the consumer of the right to withdraw consent to have the record provided or made available in an electronic form and of any conditions or consequences of such withdrawal. Those consequences may include termination of the parties' relationship but may not include the imposition of fees.

c. Informing the consumer of whether the consent to have the record provided or made available in an electronic form applies only to the particular transaction which gave rise to the obligation to provide the record, or to identified categories of records that may be provided or made available during the course of the parties' relationship.

d. Describing the procedures the consumer must use to withdraw consent as provided in sub-subdivision (2)b. of this subsection or to update information needed to contact the consumer electronically.

e. Informing the consumer how, after the consent to have the record provided or made available in an electronic form, the consumer may request and obtain a paper copy of an electronic record.

(3) The consumer, prior to consenting to the use of electronic means, is provided with a statement of the hardware and software requirements for access to and retention of the electronic records; and the consumer consents electronically, or confirms his or her consent electronically, in a manner that reasonably demonstrates that the consumer can access information in the electronic form that will be used to provide the information that is the subject of the consent.

(4) After the consent of a consumer in accordance with subdivision (1) of this subsection, if a change in the hardware or software requirements needed to access or retain electronic records creates a material risk that the consumer will not be able to access or retain a subsequent electronic record that was the subject of the consent, the

person providing the electronic record provides the consumer with a statement of the revised hardware and software requirements for access to and retention of the electronic records, provides a statement of the right to withdraw consent without the imposition of any condition or consequence that was not disclosed under sub-subdivision (2)b. of this subsection, and again complies with subdivision (3) of this subsection.

(d) Written Copy Required. -- Notwithstanding G.S. 66-308.4(b), in a consumer transaction where the consumer conducts the transaction on electronic equipment provided by or through the seller, the consumer shall be given a written copy of the contract which is not in electronic form. A consumer's consent to receive future notices regarding the transaction in an electronic form is valid only if the consumer confirms electronically, using equipment other than that provided by the seller, that (i) the consumer has the software specified by the seller as necessary to read future notices, and (ii) the consumer agrees to receive the notices in an electronic form. If an individual enters into a consumer transaction that is created or documented by an electronic record, the transaction shall be deemed to have been made or to have occurred at the individual's residence.

"*§ 66-308.17. Severability clause.*

If any provision of this Article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable."

Section 2. The Revisor of Statutes shall cause to be printed along with this act all relevant portions of the official comments to the Uniform Electronic Transactions Act, as the Revisor deems appropriate.

Section 3. This act becomes effective October 1, 2000.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 9:28 a.m. on the 2nd day of August, 2000.

S.B. 1460 **SESSION LAW 2000-153**

AN ACT TO PROVIDE INCENTIVES FOR DEVELOPMENT OF THE FILM INDUSTRY IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"*§ 143B-434.3. Film Industry Development Account.*

(a) Creation and Purpose of Account. -- There is created in the Department of Commerce, Division of Travel and Tourism, the Film Industry Development Account to provide annual grants as incentives

to production companies that engage in production activities in this State. The Division of Travel and Tourism shall administer this program in accordance with the following provisions:

(1) To be eligible for a grant, a production company must engage in production activities in this State. A grant may not be used for political or issue advertising.

(2) A grant may not exceed fifteen percent (15%) of the amount the production company spends for goods and services in this State during the calendar year.

(3) A grant may not exceed two hundred thousand dollars ($200,000) per production.

(b) Production Company Defined. -- As used in this section, the term 'production company' has the meaning provided in G.S. 105-164.3.

(c) Reports. -- The Department of Commerce shall report annually to the General Assembly concerning the applications made to the account, the payments made from the account, and the effect of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the account, including information regarding to whom payments were made and in what amounts."

Section 2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"*§ 143-341. Powers and duties of Department.*

The Department of Administration has the following powers and duties:

. . .

(4) Real Property Control:

. . .

o. To provide that no fee, other than reimbursement of actual costs incurred and actual revenues lost by the State, shall be charged when State buildings are made available to a production company for a production. As used in this subdivision, the term 'production company' has the meaning provided in G.S. 105-164.3.

. . . ."

Section 3. Article 10 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"*§ 143-162.2. Use of public property by production companies.*

If a State agency makes real property available to a production company for a production, it shall not charge any fee other than reimbursement of actual costs incurred and actual revenues lost by the agency. As used in this section, the term 'production company' has the meaning provided in G.S. 105-164.3. This section does not require a State agency to make real property available to a production company for a production."

Section 4. G.S. 105-164.3 is amended by adding a new subdivision to read:

"(11c) 'Production company' means a person engaged in the business of making original motion picture, television, or radio images for theatrical, commercial, advertising, or educational purposes."

Section 5. G.S. 105-164.13(22a) reads as rewritten:

"(22a) Sales of audiovisual masters made or used by a production company in making visual and audio images for first generation reproduction. For the purpose of this subdivision, an "audiovisual master" is an audio or video film, tape, or disk or another audio or video storage device from which all other copies are made. ~~For the purpose of this subdivision, a production company is a person engaged in the business of making motion picture, television, or radio images for theatrical, commercial, advertising, or educational purposes.~~"

Section 6. No production company shall be eligible for a grant under G.S. 143B-434.3 if an original motion picture, television, or radio image for theatrical, commercial, advertising, or educational purposes made by that company contains material that is considered obscene, as defined by G.S. 14-190.1(b).

Section 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law upon approval of the Governor at 9:30 a.m. on the 2nd day of August, 2000.

S.B. 1192 **SESSION LAW 2000-154**

AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FROM STATE AND NATIONAL REPOSITORIES OF CRIMINAL HISTORY FOR CERTAIN APPLICANTS FOR EMPLOYMENT IN ADULT CARE HOMES, NURSING HOMES, HOME CARE AGENCIES, AND CERTAIN MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FACILITIES; TO IMPOSE A CRIMINAL PENALTY FOR FALSIFYING INFORMATION ON EMPLOYMENT APPLICATIONS; TO REQUIRE CERTAIN DISCLOSURES BY NURSING HOMES; AND PERTAINING TO RULES FOR THE OPERATION OF THE ADULT CARE PORTION OF NURSING HOMES.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 114 of the General Statutes is amended by adding the following new section to read:

"*§ 114-19.10. Criminal record checks for adult care homes, nursing homes, home care agencies, and area mental health, developmental disabilities, and substance abuse services authorities.*

The Department of Justice may provide to the following entities the criminal history from the State and National Repositories of Criminal Histories:

(1) Nursing homes or combination homes licensed under Chapter 131E of the General Statutes.

(2) Adult care homes licensed under Chapter 131D of the General Statutes.

(3) Home care agencies licensed under Chapter 131E of the General Statutes.

(4) Area mental health, developmental disabilities, and substance abuse services authorities licensed under Chapter 122C of the General Statutes, including a contract agency of an area authority that is subject to the provisions of Article 4 of that Chapter.

The criminal history shall be provided to nursing homes and home care agencies in accordance with G.S. 131E-265, to adult care homes in accordance with G.S. 131D-40, and to area mental health, developmental disabilities, and substance abuse services authorities in accordance with G.S. 122C-80. The requesting entity shall provide to the Department of Justice, along with the request, the fingerprints of the individual to be checked if a national criminal history record check is required, any additional information required by the Department of Justice, and a form signed by the individual to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories. If a national criminal history record check is required, the fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. All information received by the entity shall be kept confidential in accordance with G.S. 131E-265, 131D-40, and 122C-80, as applicable. The Department of Justice shall charge a reasonable fee for conducting the checks authorized by this section. The fee for the State check may not exceed fourteen dollars ($14.00)."

Section 2.(a) Subsections (a) and (a1) of G.S. 131D-40 read as rewritten:

"(a) Requirement; Adult Care Home. -- An offer of employment by an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of

the applicant. An adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, an ~~An~~ adult care home shall submit a request to the Department of Justice under ~~G.S. 114-19.3~~ G.S. 114-19.10 to conduct a State or national criminal history record ~~check~~ check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. ~~within five business days of making the conditional offer of employment.~~ All criminal history information received by the home is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Adult Care Home. -- An offer of employment by a contract agency of an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of an adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a ~~A~~ contract agency of an adult care home shall submit a request to the Department of Justice under G.S. ~~114-19.3~~ 114-19.10 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. ~~criminal history record check within five business days of making the conditional offer of employment.~~ All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section."

Section 2.(b) G.S. 131D-40 is amended by adding the following new subsections to read:

"(e) Penalty for Furnishing False Information. -- Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(f) Conditional Employment. -- An adult care home may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The adult care home shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in G.S. 114-19.10.

(2) The adult care home shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

(g) Immunity From Liability. -- An entity and officers and employees of an entity shall be immune from civil liability for failure to check an employee's history of criminal offenses if the employee's criminal history record check is requested and received in compliance with this section."

Section 3.(a) Subsections (a) and (a1) of G.S. 131E-265 read as rewritten:

"(a) Requirement; Nursing Home or Home Care Agency. -- An offer of employment by a nursing home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An offer of employment by a home care agency licensed under this Chapter to an applicant to fill a position that requires entering the patient's home is conditioned on consent to a criminal history record check of the applicant. In addition, employment status change of a current employee of a home care agency licensed under this Chapter from a position that does not require entering the patient's home to a position that requires entering the patient's home shall be conditioned on consent to a criminal history record check of that current employee. If the applicant for employment or if the current employee who is changing employment status has been a resident of this State for less than five years, then the offer of employment or change in employment status is conditioned on consent to a State and national criminal history record check. The national criminal history record check shall include a check of the applicant's or current employee's fingerprints. If the applicant or current employee has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant or current employee applying for a change in employment status. A nursing home or a home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. In addition, a home care agency shall not change a current employee's employment status from a position that does not require entering the patient's home

to a position that requires entering the patient's home who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, ~~A~~ a nursing home or home care agency shall submit a request to the Department of Justice under G.S. ~~114-19.3~~ 114.19.10 to conduct a ~~criminal history record check within five business days of making the conditional offer of employment.~~ State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. All criminal history information received by the home or agency is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Nursing Home or Home Care Agency. -- An offer of employment by a contract agency of a nursing home or home care agency licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of a nursing home or home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, ~~A~~ a contract agency of a nursing home or home care agency shall submit a request to the Department of Justice under G.S. ~~114-19.3~~ 114-19.10 ~~to conduct a criminal history record check within five business days of making the conditional offer of employment.~~ to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section."

Section 3.(b) G.S. 131E-265 is amended by adding the following new subsections to read:

"(e) Penalty for Furnishing False Information. -- Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(f) Conditional Employment. -- A nursing home or home care agency may employ an applicant conditionally prior to obtaining the

results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The nursing home or home care agency shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in G.S. 114-19.10.

(2) The nursing home or home care agency shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

(g) Immunity From Liability. -- An entity and officers and employees of an entity shall be immune from civil liability for failure to check an employee's history of criminal offenses if the employee's criminal history record check is requested and received in compliance with this section."

Section 4. Chapter 122C of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 3A.

"Miscellaneous Provisions.

"§ *122C-80. Criminal history record check required for certain applicants for employment.*

(a) Definition. -- As used in this section, 'area authority' means an area mental health, developmental disabilities, and substance abuse services area authority, including a contract agency of an area authority that is subject to the provisions of Article 4 of this Chapter.

(b) Requirement. -- An offer of employment by an area authority licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a State and national criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An area authority shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, an area authority shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a criminal history record check required by this section. All criminal history information received by the area authority is confidential and may not be disclosed, except to the applicant as provided in subsection (c) of this section.

(c) Action. -- If an applicant's criminal history record check reveals one or more convictions of a relevant offense, the area authority shall

consider all of the following factors in determining whether to hire the applicant:

(1) The level and seriousness of the crime.
(2) The date of the crime.
(3) The age of the person at the time of the conviction.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.
(7) The subsequent commission by the person of a relevant offense.

The fact of conviction of a relevant offense alone shall not be a bar to employment; however, the listed factors shall be considered by the area authority. If the area authority disqualifies an applicant after consideration of the relevant factors, then the area authority may disclose information contained in the criminal history record check that is relevant to the disqualification, but may not provide a copy of the criminal history record check to the applicant.

(d) Limited Immunity. -- An area authority and an officer or employee of an area authority that, in good faith, complies with this section shall be immune from civil liability for:

(1) The failure of the area authority to employ an individual on the basis of information provided in the criminal history record check of the individual.
(2) Failure to check an employee's history of criminal offenses if the employee's criminal history record check is requested and received in compliance with this section.

(e) Relevant Offense. -- As used in this section, 'relevant offense' means a State crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of persons needing mental health, developmental disabilities, or substance abuse services. These crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27,

Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(f) Penalty for Furnishing False Information. -- Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(g) Conditional Employment. -- An area authority may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The area authority shall not employ an applicant prior to obtaining the applicant's consent for criminal history record check as required in subsection (b) of this section or the completed fingerprint cards as required in G.S. 114-19.10.

(2) The area authority shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment."

Section 5. G.S. 114-19.3(a) reads as rewritten:

"(a) Authority. -- The Department of Justice may provide to any of the following entities a criminal record check of an individual who is employed by that entity, has applied for employment with that entity, or has volunteered to provide direct care on behalf of that entity:

(1) Hospitals licensed under Chapter 131E of the General Statutes.

~~(2) Nursing homes or combination homes licensed under Chapter 131E of the General Statutes.~~

~~(3) Adult care homes licensed under Chapter 131D of the General Statutes.~~

(4) ~~Home care agencies or hospices~~ Hospices licensed under Chapter 131E of the General Statutes.

(5) Child placing agencies licensed under Chapter 131D of the General Statutes.

(6) Residential child care facilities licensed under Chapter 131D of the General Statutes.

(7) Hospitals licensed under Chapter 122C of the General Statutes.

~~(8) Area mental health, developmental disabilities, and substance abuse authorities licensed under Chapter 122C of the General Statutes, including a contract agency of an area~~

~~authority that is subject to the provisions of Article 4 of that Chapter.~~

(9) Licensed child care facilities and nonlicensed child care homes regulated by the State.

(10) Any other organization or corporation, whether for profit or nonprofit, that provides direct care or services to children, the sick, the disabled, or the elderly."

Section 6. Effective January 1, 2001, Part A of Article 6 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"*§ 131E-113. Special care units; disclosure of information required.*

(a) A nursing home or combination home licensed under this Part that provides special care for persons with Alzheimer's disease or other dementias in a special care unit shall make the following disclosures pertaining to the special care provided that distinguishes the special care unit as being especially designed for residents with Alzheimer's disease or other dementias. The disclosure shall be made annually, in writing, to all of the following:

(1) The Department, as part of its licensing procedures.

(2) Each person seeking placement within a special care unit, or the person's authorized representative, prior to entering into an agreement with the person to provide special care.

(b) Information that must be disclosed in writing shall include, but is not limited to, all of the following:

(1) A statement of the overall philosophy and mission of the licensed facility and how it reflects the special needs of residents with dementia.

(2) The process and criteria for placement, transfer, or discharge to or from the special care unit.

(3) The process used for assessment and establishment of the plan of care and its implementation, as required under State and federal law.

(4) Typical staffing patterns and how the patterns reflect the resident's need for increased care and supervision.

(5) Dementia-specific staff training.

(6) Physical environment features designed specifically for the special care unit.

(7) Alzheimer's disease and other dementia-specific programming.

(8) Opportunities for family involvement.

(9) Additional costs or fees to the resident for special care.

(c) As part of its license renewal procedures and inspections, the Department shall examine for accuracy the written disclosures made by each licensed facility subject to this section.

(d) Nothing in this section shall be construed as prohibiting a nursing home or combination home that does not offer a special care unit from admitting a person with Alzheimer's disease or other dementias. The disclosures required by this section apply only to a nursing home or combination home that advertises, markets, or

otherwise promotes itself as providing a special care unit for persons with Alzheimer's disease or other dementias.

(e) As used in this section, the term 'special care unit' means a wing or hallway within a nursing home, or a program provided by a nursing home, that is designated especially for residents with Alzheimer's disease or other dementias, or other special needs disease or condition, as determined by the Medical Care Commission, which may include mental disabilities."

Section 6.1. G.S. 131E-104 reads as rewritten:

"§ *131E-104. Rules and enforcement.*

(a) The Commission is authorized to adopt, amend, and repeal all rules necessary for the implementation of this Part.

(b) The Commission shall adopt rules for the operation of the adult care portion of a combination ~~home that are equal to the rules adopted by the Social Services Commission for the operation of freestanding adult care homes. The adult care portion of a combination home in existence on January 1, 1982, shall be exempt from physical plant minimum standards, unless the Department determines the exemption to be an imminent hazard to health, safety and welfare of the residents.~~ home. The rules shall provide that for each requirement applicable to freestanding adult care homes or freestanding nursing homes, the combination home may choose to operate the adult care portion of the home in compliance with either the requirement applicable to freestanding adult care homes or the higher standard applicable to freestanding nursing homes."

Section 7. Sections 1 through 5 of this act become effective January 1, 2001, and apply to offenses committed and offers of employment made on and after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 9:33 a.m. on the 2nd day of August, 2000.

H.B. 1499 **SESSION LAW 2000-155**

AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE GOVERNOR'S DWI TASK FORCE, TO PROVIDE FOR A CHALLENGE TO THE TRANSFER OF FEDERAL FUNDS, AND TO CLARIFY THE EFFECTIVE DATE FOR COMMERCIAL MOTOR VEHICLE INSURANCE PROVISIONS OF SESSION LAW 330 OF THE 1999 GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-17.8(b) reads as rewritten:

"(b) Ignition Interlock Required. -- When the Division restores the license of a person who is subject to this section, in addition to any other restriction or condition, it shall require the person to agree to

and shall indicate on the person's drivers license the following restrictions for the period designated in subsection (c):

(1) A restriction that the person may operate only a vehicle that is equipped with a functioning ignition interlock system of a type approved by the Commissioner. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.

(2) A requirement that the person personally activate the ignition interlock system before driving the motor vehicle.

(3) ~~A requirement that the person not drive with an alcohol concentration of 0.04 or greater.~~ An alcohol concentration restriction as follows:

a. If the ignition interlock system is required pursuant only to subdivision (a)(1) of this section, a requirement that the person not drive with an alcohol concentration of 0.04 or greater;

b. If the ignition interlock system is required pursuant to subdivision (a)(2) of this section, a requirement that the person not drive with an alcohol concentration of greater than 0.00; or

c. If the ignition interlock system is required pursuant to subdivision (a)(1) of this section, and the person has also been convicted, based on the same set of circumstances, of: (i) driving while impaired in a commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) felony death by vehicle, G.S. 20-141.4(a1), or (iv) manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, a requirement that the person not drive with an alcohol concentration of greater than 0.00."

Section 2. G.S. 20-17.8 is amended by adding a new subsection to read:

"(c1) Vehicles Subject to Requirement. -- A person subject to this section shall have all registered vehicles owned by that person equipped with a functioning ignition interlock system of a type approved by the Commissioner, unless the Division determines that one or more specific registered vehicles owned by that person are relied upon by another member of that person's family for transportation and that the vehicle is not in the possession of the person subject to this section."

Section 3. G.S. 20-17.8(f) reads as rewritten:

"(f) Effect of Violation of Restriction. -- A person subject to this section who violates any of the restrictions of this section commits the offense of driving while license revoked under G.S. 20-28(a) and is subject to punishment and license revocation as provided in that

section. If a law enforcement officer has reasonable grounds to believe that a person subject to this section has consumed alcohol while driving or has driven while he has remaining in his body any alcohol previously consumed, the suspected offense of driving while license is revoked is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2. If a person subject to this section is charged with driving while license revoked by violating a condition of subsection (b) of this section, and a judicial official determines that there is probable cause for the charge, the person's license is suspended pending the resolution of the case, and the judicial official must require the person to surrender the license. The judicial official must also notify the person that he is not entitled to drive until his case is resolved. An alcohol concentration report from the ignition interlock system shall not be admissible as evidence of driving while license revoked, nor shall it be admissible in an administrative revocation proceeding as provided in subsection (g) of this ~~section; provided that the person did not operate a vehicle until the ignition interlock system indicated an alcohol concentration of less than 0.04.~~ section, unless the person operated a vehicle when the ignition interlock system indicated an alcohol concentration in violation of the restriction placed upon the person by subdivision (b)(3) of this section. If a person subject to this section is charged with driving while license revoked by violating the requirements of subsection (c1) of this section, and no other violation of this section is alleged, the court may make a determination at the hearing of the case that the vehicle, on which the ignition interlock system was not installed, was relied upon by another member of that person's family for transportation and that the vehicle was not in the possession of the person subject to this section, and therefore the vehicle was not required to be equipped with a functioning ignition interlock system. If the court determines that the vehicle was not required to be equipped with a functioning ignition interlock system and the person subject to this section has committed no other violation of this section, the court shall find the person not guilty of driving while license revoked."

Section 4. G.S. 20-138.7 reads as rewritten:

"*§ 20-138.7. Transporting an open container of alcoholic ~~beverage after consuming alcohol.~~ beverage.*

(a) Offense. -- No person shall drive a motor vehicle on a highway or ~~public vehicular area;~~ the right-of-way of a highway:

(1) While there is an alcoholic beverage in the passenger area in other than ~~in~~ the unopened manufacturer's original ~~container in the passenger area;~~ container; and

(2) While the driver is consuming alcohol or while alcohol remains in the driver's body.

(a1) Offense. -- No person shall possess an alcoholic beverage other than in the unopened manufacturer's original container, or consume an alcoholic beverage, in the passenger area of a motor vehicle while the motor vehicle is on a highway or the right-of-way of a highway.

For purposes of this subsection, only the person who possesses or consumes an alcoholic beverage in violation of this subsection shall be charged with this offense.

(a2) Exception. -- It shall not be a violation of subsection (a1) of this section for a passenger to possess an alcoholic beverage other than in the unopened manufacturer's original container, or for a passenger to consume an alcoholic beverage, if the container is:

(1) In the passenger area of a motor vehicle that is designed, maintained, or used primarily for the transportation of persons for compensation;

(2) In the living quarters of a motor home or house car as defined in G.S. 20-4.01(27)d2.; or

(3) In a house trailer as defined in G.S. 20-4.01(14).

(a3) Meaning of Terms. -- Under this section, the term 'motor vehicle' means only those types of motor vehicles which North Carolina law requires to be registered, whether the motor vehicle is registered in North Carolina or another jurisdiction.

(b) Subject to Implied-Consent Law. -- An offense under this section is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2.

(c) Odor Insufficient. -- The odor of an alcoholic beverage on the breath of the driver is insufficient evidence to prove beyond a reasonable doubt that alcohol was remaining in the driver's body in violation of this section, unless the driver was offered an alcohol screening test or chemical analysis and refused to provide all required samples of breath or blood for analysis.

(d) Alcohol Screening Test. -- Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violating subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Commission for Health Services, and the screening test is conducted in accordance with the applicable regulations of the Commission as to the manner of its use.

(e) Punishment; Effect When Impaired Driving Offense Also Charged. -- Violation of ~~this section~~ subsection (a) of this section shall be ~~punished as~~ a Class 3 misdemeanor for the first offense and shall be ~~punished as~~ a Class 2 misdemeanor for a second or subsequent offense. ~~A fine imposed for a second or subsequent offense may not exceed one thousand dollars ($1,000).~~ Violation of ~~this section~~ subsection (a) of this section is not a lesser included offense of impaired driving under G.S. 20-138.1, but if a person is convicted under ~~this section~~ subsection (a) of this section and of an offense involving impaired driving arising out of the same transaction, the punishment imposed by the court shall not exceed the maximum applicable to the offense involving impaired driving, and any minimum applicable punishment shall be imposed. Violation of subsection (a1)

of this section by the driver of the motor vehicle is a lesser-included offense of subsection (a) of this section. A violation of ~~this section~~ subsection (a) shall be considered a moving violation for purposes of G.S. 20-16(c).

Violation of subsection (a1) of this section shall be an infraction and shall not be considered a moving violation for purposes of G.S. 20-16(c).

(f) Definitions. -- If the seal on a container of alcoholic beverages has been broken, it is opened within the meaning of this section. For purposes of this section, "passenger area of a motor vehicle" means the area designed to seat the driver and passengers and any area within the reach of a seated driver or passenger, including the glove compartment. The area of the trunk or the area behind the last upright back seat of a station wagon, hatchback, or similar vehicle shall not be considered part of the passenger area. The term "alcoholic beverage" is as defined in G.S. 18B-101(4).

(g) Pleading. -- In any prosecution for a violation of ~~this section,~~ subsection (a) of this section, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges that the defendant drove a motor vehicle on a highway or ~~public vehicular area~~ the right-of-way of a highway with an open container of alcoholic beverage after drinking.

In any prosecution for a violation of subsection (a1) of this section, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges that (i) the defendant possessed an open container of alcoholic beverage in the passenger area of a motor vehicle while the motor vehicle was on a highway or the right-of-way of a highway, or (ii) the defendant consumed an alcoholic beverage in the passenger area of a motor vehicle while the motor vehicle was on a highway or the right-of-way of a highway.

(h) Limited Driving Privilege. -- A person who is convicted of violating subsection (a) of this section and whose drivers license is revoked solely based on that conviction may apply for a limited driving privilege as provided for in G.S. 20-179.3. The judge may issue the limited driving privilege only if the driver meets the eligibility requirements of G.S. 20-179.3, other than the requirement in G.S. 20-179.3(b)(1)c. G.S. 20-179.3(e) shall not apply. All other terms, conditions, and restrictions provided for in G.S. 20-179.3 shall apply. G.S. 20-179.3, rather than this subsection, governs the issuance of a limited driving privilege to a person who is convicted of violating subsection (a) of this section and of driving while impaired as a result of the same transaction."

Section 5. G.S. 20-16.2(c1) reads as rewritten:

"(c1) Procedure for Reporting Results and Refusal to Division. -- Whenever a person refuses to submit to a chemical analysis or a person's drivers license has an alcohol concentration restriction and the results of the chemical analysis establish a violation of the restriction, the charging officer and the chemical analyst must without

unnecessary delay go before an official authorized to administer oaths and execute an affidavit(s) stating that:

(1) The person was charged with an implied-consent offense or had an alcohol concentration restriction on the drivers license;

(2) The charging officer had reasonable grounds to believe that the person had committed an implied-consent offense or violated the alcohol concentration restriction on the drivers license;

(3) Whether the implied-consent offense charged involved death or critical injury to another person, if the person willfully refused to submit to chemical analysis;

(4) The person was notified of the rights in subsection (a); and

(5) The results of any tests given or that the person willfully refused to submit to a chemical analysis upon the request of the charging officer.

If the person's drivers license has an alcohol concentration restriction, pursuant to G.S. 20-19(c3), and an officer has reasonable grounds to believe the person has violated a provision of that restriction other than violation of the alcohol concentration level, the charging officer and chemical analyst shall complete the applicable sections of the affidavit and indicate the restriction which was violated. The charging officer must immediately mail the affidavit(s) to the Division. If the charging officer is also the chemical analyst who has notified the person of the rights under subsection (a), the charging officer may perform alone the duties of this subsection."

Section 6. G.S. 20-19(c3) reads as rewritten:

"(c3) Restriction; Revocations. -- When the Division restores a person's drivers license which was revoked pursuant to G.S. 20-13.2(a), G.S. 20-23 when the offense involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a), subdivision (1) or (9) of G.S. 20-17(a) when the offense involved impaired driving, or this subsection, in addition to any other restriction or condition, it shall place the applicable restriction on the person's drivers license as follows:

(1) For the first restoration of a drivers license for a person convicted of driving while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired under G.S. 20-138.1, that the person not operate a vehicle with an alcohol concentration of 0.04 or more at any relevant time after the driving;

(2) For the second or subsequent restoration of a drivers license for a person convicted of driving while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct

which if committed in this State would result in a conviction of driving while impaired under G.S. 20-138.1, that the person not operate a vehicle with an alcohol concentration greater than 0.00 at any relevant time after the driving;

(3) For any restoration of a drivers license for a person convicted of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, felony death by vehicle, G.S. 20-141.4(a1), manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, or a revocation under this subsection, that the person not operate a vehicle with an alcohol concentration of 0.00 or more at any relevant time after the driving;

(4) For any restoration of a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, felony death by vehicle, G.S. 20-141.4(a1), or manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, that the person not operate a vehicle with an alcohol concentration of 0.00 or more at any relevant time after the driving.

In addition, the person seeking restoration of a license must agree to submit to a chemical analysis in accordance with G.S. 20-16.2 at the request of a law enforcement officer who has reasonable grounds to believe the person is operating a motor vehicle on a highway or public vehicular area in violation of the restriction specified in this subsection. The person must also agree that, when requested by a law enforcement officer, the person will agree to be transported by the law enforcement officer to the place where chemical analysis is to be administered.

The restrictions placed on a license under this subsection shall be in effect (i) seven years from the date of restoration if the person's license was permanently revoked, (ii) until the person's twenty-first birthday if the revocation was for a conviction under G.S. 20-138.3, and (iii) three years in all other cases.

A law enforcement officer who has reasonable grounds to believe that a person has violated a restriction placed on the person's drivers license shall complete an affidavit pursuant to G.S. 20-16.2(c1). On the basis of information reported pursuant to G.S. 20-16.2, the Division shall revoke the drivers license of any person who violates a condition of reinstatement imposed under this subsection. An alcohol concentration report from an ignition interlock system shall not be used as the basis for revocation under this subsection. A violation of a restriction imposed under this subsection or the willful refusal to

submit to a chemical analysis shall result in a one-year revocation. If the period of revocation was imposed pursuant to subsection (d) or (e), any remaining period of the original revocation, prior to its reduction, shall be reinstated and the one-year revocation begins after all other periods of revocation have terminated."

Section 7. G.S. 20-179.3(g5) reads as rewritten:

"(g5) Ignition Interlock Required. -- If a person's drivers license is revoked for a conviction of G.S. 20-138.1, and the person had an alcohol concentration of 0.16 or more, a judge shall include all of the following in a limited driving privilege order:

(1) A restriction that the applicant may operate only a designated motor vehicle.

(2) A requirement that the designated motor vehicle be equipped with a functioning ignition interlock system of a type approved by the ~~Commissioner.~~ Commissioner, which is set to prohibit driving with an alcohol concentration of greater than 0.00. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.

(3) A requirement that the applicant personally activate the ignition interlock system before driving the motor vehicle."

Section 8. G.S. 20-139.1(b3) reads as rewritten:

"(b3) Sequential Breath Tests Required. -- By January 1, 1985, the regulations of the Commission for Health Services governing the administration of chemical analyses of the breath shall require the testing of at least duplicate sequential breath samples. Those regulations must provide:

(1) A specification as to the minimum observation period before collection of the first breath sample and the time requirements as to collection of second and subsequent samples.

(2) That the test results may only be used to prove a person's particular alcohol concentration if:

a. The pair of readings employed are from consecutively administered tests; and

b. The readings do not differ from each other by an alcohol concentration greater than 0.02.

(3) That when a pair of analyses meets the requirements of subdivision (2), only the lower of the two readings may be used by the State as proof of a person's alcohol concentration in any court or administrative proceeding.

A person's ~~willful~~ refusal to give the sequential breath samples necessary to constitute a valid chemical analysis is a ~~willful~~ refusal under G.S. 20-16.2(c).

A person's ~~willful~~ refusal to give the second or subsequent breath sample shall make the result of the first breath sample, or the result of the sample providing the lowest alcohol concentration if more than one

breath sample is provided, admissible in any judicial or administrative hearing for any relevant purpose, including the establishment that a person had a particular alcohol concentration for conviction of an offense involving impaired driving."

Section 9. G.S. 20-4.01(24a) reads as rewritten:

"(24a) Offense Involving Impaired Driving. -- Any of the following offenses:

a. Impaired driving under G.S. 20-138.1.
b. Death by vehicle under G.S. 20-141.4 when conviction is based upon impaired driving or a substantially ~~equivalent~~ similar offense under previous law.
c. First or second degree murder under G.S. 14-17 or involuntary manslaughter under G.S. 14-18 when conviction is based upon impaired driving or a substantially ~~equivalent~~ similar offense under previous law.
d. An offense committed in another jurisdiction which prohibits substantially similar conduct prohibited by the offenses in this subsection.
e. A repealed or superseded offense substantially ~~equivalent~~ similar to impaired driving, including offenses under former G.S. 20-138 or G.S. 20-139.
f. Impaired driving in a commercial motor vehicle under G.S. 20-138.2, except that convictions of impaired driving under G.S. 20-138.1 and G.S. 20-138.2 arising out of the same transaction shall be considered a single conviction of an offense involving impaired driving for any purpose under this Chapter.
g. Habitual impaired driving under G.S. 20-138.5.

A conviction under former G.S. 20-140(c) is not an offense involving impaired driving."

Section 10. G.S. 20-16(a) reads as rewritten:

"(a) The Division shall have authority to suspend the license of any operator with or without a preliminary hearing upon a showing by its records or other satisfactory evidence that the licensee:

(1) through (4) Repealed by Session Laws 1979, c. 36;
(5) Has, under the provisions of subsection (c) of this section, within a three-year period, accumulated 12 or more points, or eight or more points in the three-year period immediately following the reinstatement of a license which has been suspended or revoked because of a conviction for one or more traffic offenses;
(6) Has made or permitted an unlawful or fraudulent use of such license or a learner's permit, or has displayed or represented as his own, a license or learner's permit not issued to him;

(7) Has committed an offense in another state, which if committed in this State would be grounds for suspension or revocation;

(8) Has been convicted of illegal transportation of alcoholic beverages;

(8a) Has been convicted of impaired instruction under G.S. 20-12.1;

(8b) Has violated on a military installation a regulation of that installation prohibiting conduct substantially ~~equivalent~~ similar to conduct that constitutes impaired driving under G.S. 20-138.1 and, as a result of that violation, has had his privilege to drive on that installation revoked or suspended after an administrative hearing authorized by the commanding officer of the installation and that commanding officer has general court martial jurisdiction;

(9) Has, within a period of 12 months, been convicted of two or more charges of speeding in excess of 55 and not more than 80 miles per hour, or of one or more charges of reckless driving and one or more charges of speeding in excess of 55 and not more than 80 miles per hour;

(10) Has been convicted of operating a motor vehicle at a speed in excess of 75 miles per hour on a public road or highway where the maximum speed is less than 70 miles per hour;

(10a) Has been convicted of operating a motor vehicle at a speed in excess of 80 miles per hour on a public highway where the maximum speed is 70 miles per hour; or

(11) Has been sentenced by a court of record and all or a part of the sentence has been suspended and a condition of suspension of the sentence is that the operator not operate a motor vehicle for a period of time.

However, if the Division revokes without a preliminary hearing and the person whose license is being revoked requests a hearing before the effective date of the revocation, the licensee retains his license unless it is revoked under some other provision of the law, until the hearing is held, the person withdraws his request, or he fails to appear at a scheduled hearing."

Section 11. G.S. 20-179.3(b) reads as rewritten:

"(b) Eligibility. --

(1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if:

a. At the time of the offense he held either a valid driver's license or a license that had been expired for less than one year;

b. At the time of the offense he had not within the preceding seven years been convicted of an offense involving impaired driving;

c. Punishment Level Three, Four, or Five was imposed for the offense of impaired driving;

d. Subsequent to the offense he has not been convicted of, or had an unresolved charge lodged against him for, an offense involving impaired driving; and
e. The person has obtained and filed with the court a substance abuse assessment of the type required by G.S. 20-17.6 for the restoration of a drivers license.

A person whose North Carolina driver's license is revoked because of a conviction in another jurisdiction substantially ~~equivalent~~ similar to impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if he would be eligible for it had the conviction occurred in North Carolina. Eligibility for a limited driving privilege following a revocation under G.S. 20-16.2(d) is governed by G.S. 20-16.2(e1).

(2) Any person whose licensing privileges are forfeited pursuant to G.S. 15A-1331A is eligible for a limited driving privilege if the court finds that at the time of the forfeiture, the person held either a valid drivers license or a drivers license that had been expired for less than one year and
a. The person is supporting existing dependents or must have a drivers license to be gainfully employed; or
b. The person has an existing dependent who requires serious medical treatment and the defendant is the only person able to provide transportation to the dependent to the health care facility where the dependent can receive the needed medical treatment.

The limited driving privilege granted under this subdivision must restrict the person to essential driving related to the purposes listed above, and any driving that is not related to those purposes is unlawful even though done at times and upon routes that may be authorized by the privilege."

Section 12. G.S. 20-179.3(c) reads as rewritten:

"(c) Privilege Not Effective until after Compliance with Court-Ordered Revocation. -- A person convicted of an impaired driving offense may apply for a limited driving privilege at the time the judgment is entered. If the judgment does not require the person to complete a period of nonoperation pursuant to G.S. 20-179, the privilege may be issued at the time the judgment is issued. If the judgment requires the person to complete a period of nonoperation pursuant to G.S. 20-179, the limited driving privilege may not be effective until the person successfully completes that period of nonoperation. A person whose license is revoked because of a conviction in another jurisdiction substantially ~~equivalent~~ similar to impaired driving under G.S. 20-138.1 may apply for a limited driving privilege only after having completed at least 60 days of a court-imposed term of nonoperation of a motor vehicle, if the court in the other jurisdiction imposed such a term of nonoperation."

Section 13. G.S. 20-179.3(e) reads as rewritten:

"(e) Limited Basis for and Effect of Privilege. -- A limited driving privilege issued under this section authorizes a person to drive if his license is revoked solely under G.S. 20-17(2) or as a result of a conviction in another jurisdiction substantially ~~equivalent~~ similar to impaired driving under G.S. 20-138.1; if the person's license is revoked under any other statute, the limited driving privilege is invalid."

Section 14. G.S. 14-7.7(b) reads as rewritten:

"(b) For purposes of this Article, "violent felony" includes the following offenses:

(1) All Class A through E felonies.

(2) Any repealed or superseded offense substantially equivalent to the offenses listed in subdivision (1).

(3) Any offense committed in another jurisdiction substantially ~~equivalent~~ similar to the offenses set forth in subdivision (1) or (2)."

Section 15. G.S. 16.5(b) reads as rewritten:

"(b) Revocations for Persons Who Refuse Chemical Analyses or Who Are Charged With Certain Implied-Consent Offenses. -- A person's driver's license is subject to revocation under this section if:

(1) A charging officer has reasonable grounds to believe that the person has committed an offense subject to the implied-consent provisions of G.S. 20-16.2;

(2) The person is charged with that offense as provided in G.S. 20-16.2(a);

(3) The charging officer and the chemical analyst comply with the procedures of G.S. 20-16.2 and G.S. 20-139.1 in requiring the person's submission to or procuring a chemical analysis; and

(4) The person:

a. Willfully refuses to submit to the chemical analysis;

b. Has an alcohol concentration of 0.08 or more within a relevant time after the driving;

c. Has an alcohol concentration of 0.04 or more at any relevant time after the driving of a commercial motor vehicle; or

d. Has any alcohol concentration at any relevant time after the driving and the person is under 21 years of age."

Section 16. G.S. 20-138.2A(b2) reads as rewritten:

"(b2) Alcohol Screening Test. -- Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Commission ~~on~~ for Health Services, and the screening test is conducted in accordance

with the applicable regulations of the Commission as to its manner and use."

Section 17. G.S. 20-138.2B(b2) reads as rewritten:

"(b2) Alcohol Screening Test. -- Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Commission ~~on~~ for Health Services, and the screening test is conducted in accordance with the applicable regulations of the Commission as to its manner and use."

Section 18. G.S. 20-138.3(b2) reads as rewritten:

"(b2) Alcohol Screening Test. -- Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Commission ~~on~~ for Health Services, and the screening test is conducted in accordance with the applicable regulations of the Commission as to its manner and use."

Section 19. The General Assembly requests that the Attorney General initiate litigation to challenge the federal government's unconstitutional intrusion into the State's authority to enact and enforce its own laws regarding motor vehicles and traffic safety, and particularly regarding section 154 of Title 23 of the United States Code.

Section 20. Section 10 of Session Law 1999-330 reads as rewritten:

"Section 10. Section 4 of this act becomes effective September 1, 2000, and applies to new or renewal policies written to become effective on or after that date. The remainder of this ~~This~~ act becomes effective December 1, 1999, and applies to violations occurring on or after that date."

Section 21. Section 4 of this act is effective September 1, 2000, and expires September 30, 2002. Sections 19 and 20 of this act are effective when those sections become law. The remainder of this act becomes effective September 1, 2000, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 9:36 a.m. on the 2nd day of August, 2000.

S.B. 1381 **SESSION LAW 2000-156**

AN ACT TO REALLOCATE THE PROCEEDS OF THE CLEAN WATER BONDS.

The General Assembly of North Carolina enacts:

Section 1. Withdrawal of Loan Funds. -- Pursuant to Section 5.1(i) of S.L. 1998-132, the following amounts of the Clean Water Bond proceeds allocated for loans in Section 5.1(h) of S.L. 1998-132 are withdrawn from allocation under Section 5.1(h) of S.L. 1998-132 and reallocated as provided in Section 2 of this act:

(1) Water supply and distribution systems and water conservation projects:
   a. Reserved for loans to local government units whose bond rating is less than 75 or who have no bond rating $ 3,500,000
   b. Reserved for loans to local government units whose bond rating is 75 or more $ 90,600,000.
(2) Wastewater collection systems and wastewater treatment works:
   a. Reserved for loans to local government units whose bond rating is less than 75 or who have no bond rating $ 7,100,000
   b. Reserved for loans to local government units whose bond rating is 75 or more $ 98,800,000

Total Withdrawn for Reallocation $200,000,000.

Section 2.(a) Reallocation for High-Unit Cost Grants. -- Of the funds withdrawn pursuant to Section 1 of this act from allocation under Section 5.1(h) of S.L. 1998-132, the sum of one hundred forty-six million dollars ($146,000,000) shall be used by the Department of Environment and Natural Resources to provide grants to local government units for the same purpose and in accordance with Section 5.1(c) of S.L. 1998-132 and shall be allocated for this purpose as follows:

(1) High-Unit Cost Wastewater Account:
   a. Reserved for grants to local government units whose bond rating is less than 75 or who have no bond rating $ 37,960,000
   b. Reserved for grants to local government units whose bond rating is 75 or greater $ 35,040,000.
(2) High-Unit Cost Water Supply Account:
   a. Reserved for grants to local government units whose bond

rating is less than 75 or who have no bond rating $ 37,960,000

b. Reserved for grants to local government units whose bond rating is 75 or greater $ 35,040,000

Total Reallocated for Grants Under Section 5.1(c) $146,000,000.

Section 2.(b) Reallocation for Unsewered Community Grants. -- Of the funds withdrawn pursuant to Section 1 of this act from allocation under Section 5.1(h) of S.L. 1998-132, the sum of twenty-five million nine hundred twenty thousand dollars ($25,920,000) is reallocated to be used to provide unsewered community grants to eligible local government units to assist with wastewater treatment works and wastewater collection systems for the same purpose and in accordance with Section 5.1(g) of S.L. 1998-132. Grants from amounts reallocated shall be awarded and administered by the Rural Economic Development Center in accordance with Section 5.1(g) of S.L. 1998-132. The funds reallocated under this section shall be awarded on the criteria set out in Section 5.1(g) of S.L. 1998-132.

Section 2.(c) Reallocation for Supplemental and Capacity Grants. -- Of the funds withdrawn pursuant to Section 1 of this act from allocation under Section 5.1(h) of S.L. 1998-132, the sum of twenty-eight million eighty thousand dollars ($28,080,000) is reallocated to be used to provide supplemental and capacity grants to eligible local government units to match federal, State, and other grant or loan program funds to plan or improve needed water and sewer projects. Grants from amounts reallocated shall be awarded and administered by the Rural Economic Development Center in accordance with Section 5.1(f) of S.L. 1998-132 and this section. The proceeds reallocated under this section shall be allocated between supplemental grants and capacity grants as follows:

(1) Supplemental Grants.....$22,460,000

(2) Capacity Grants.....$ 5,620,000

The funds reallocated under this section shall be awarded on the criteria set out in Section 5.1(f) of S.L. 1998-132.

Notwithstanding the provisions of Section 5.1(f) of S.L. 1998-132, a maximum of twelve million dollars ($12,000,000) of supplemental grant funds and a maximum of three million dollars ($3,000,000) of capacity grant funds may be certified by the Rural Economic Development Center to the State Treasurer each fiscal year through June 30, 2005, and the State Treasurer may issue the amount certified up to fifteen million dollars ($15,000,000) each fiscal year through June 30, 2005. Upon certification for the fiscal year ending June 30, 2005, the State Treasurer may issue the remaining balance of the funds allocated under Section 5.1(f) of S.L. 1998-132 and under this section for any purpose authorized under Section 5.1(f) of S.L. 1998-132.

Section 2.(d) Moratorium. -- The Department of Environment and Natural Resources may award no more than one-half of the funds reallocated under subsection (a) of this section before March 31, 2001. Funds awarded by the Department of Environment and Natural Resources before March 31, 2001, may be awarded only as grants to eligible applicants whose applications for grants had been received by the Department on or before July 1, 2000. An application received on or before July 1, 2000, may be updated and supplemental information regarding the application may be submitted to the Department of Environment and Natural Resources on or before August 15, 2000. No applications may be updated or supplemented with additional information after that date.

The Rural Economic Development Center may award no more than one-half of the funds reallocated under subsection (b) of this section before March 31, 2001. The Rural Economic Development Center may award no more than one-half of the funds reallocated under subsection (c) of this section before March 31, 2001.

Section 2.1. Study. -- The State Infrastructure Council established in G.S. 143B-344.30 shall study the geographic distribution of loans and grants from the proceeds of the Clean Water Bonds and determine the extent to which geographic disparities and inequities of distribution exist. The Department of Environment and Natural Resources and the Rural Economic Development Center, Inc., shall cooperate with the Council in its study. The Council shall also develop a plan to redress the disparities or inequities identified. To the extent that any disparities or inequities can be addressed only through legislative action, the Council shall develop and recommend legislative proposals. No later than December 1, 2000, the Council shall report the results of its evaluation, any administrative actions taken, and any legislative proposals developed to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division.

Section 3. G.S. 159G-6(a) reads as rewritten:

"(a) Revolving loans and grants.

(1) All funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund, other than funds set aside for administrative expenses, shall be used for revolving loans and grants to applicants for construction costs of wastewater treatment works, wastewater collection systems and water supply systems and other assistance as provided in this Chapter.

(2) The maximum principal amount of a revolving loan or a grant may be one hundred percent (100%) of the nonfederal share of the construction costs of any eligible project. The maximum principal amount of revolving loans made to any one applicant during any fiscal year shall be eight million dollars ($8,000,000).

(2a) The maximum principal amount of grants made to any applicant ~~during any fiscal year~~ over a period of three fiscal

years shall be three million dollars ($3,000,000). The Department of Environment and Natural Resources may limit the maximum principal amount of ~~the~~ a grant under this subdivision to two million dollars ($2,000,000) or two-thirds of the eligible project cost, whichever is less, when the bond rating of the local government unit equals or is greater than 75 during any fiscal year and when one million dollars ($1,000,000) or one-third of the eligible project cost, whichever is less, is available to the local government unit as a loan from any source.

(2b) Notwithstanding G.S. 159G-6(a)(2a), the maximum principal amount of grants made to any applicant for a high-unit cost wastewater project under G.S. 159G-6(b)(2) during any fiscal year shall be three million dollars ($3,000,000) if the applicant is a sewer district that includes three or more local government units. Notwithstanding G.S. 159G-6(a)(2a), the maximum principal amount of grants made to any applicant for a high-unit cost water supply system under G.S. 159G-6(c)(2) during any fiscal year shall be three million dollars ($3,000,000) if the applicant is either: (i) a water district that includes three or more local government units, or (ii) a county in which less than fifty percent (50%) of the population of the county is served by a public water system that is owned or operated by a local government unit or a nonprofit water corporation.

(3) The State Treasurer shall be responsible for investing and distributing all funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund for revolving loans and grants under this Chapter. In fulfilling his responsibilities under this section, the State Treasurer shall make a written request to the Department of Environment and Natural Resources to arrange for the appropriated funds to be (i) transferred from the appropriate accounts to an applicant to provide funds for one or more revolving loans or grants or (ii) invested as authorized by this Chapter with the interest on and the principal of such investments to be transferred to the applicant to provide funds for one or more revolving loans or grants."

Section 4. Section 3 of this act is effective retroactively to July 1, 1999, and applies to grants made on or after the date this act becomes law. The remainder of this act becomes effective August 1, 2000.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 9:38 a.m. on the 2nd day of August, 2000.

S.B. 1311 **SESSION LAW 2000-157**

AN ACT TO AUTHORIZE THE ADDITION OF THE MOUNTAINS TO SEA STATE PARK TRAIL TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, Section 5 of Article XIV of the North Carolina Constitution states that it shall be a proper function of the State of North Carolina to acquire and preserve park, recreational, and scenic areas and, in every other appropriate way, to preserve as a part of the common heritage of this State its open lands and places of beauty; and

Whereas, the General Assembly enacted the State Parks Act in 1987, declaring that the State of North Carolina offers unique archaeological, geological, biological, scenic, and recreational resources, and that these resources are part of the heritage of the people of the State to be preserved and managed by those people for their use and for the use of their visitors and descendants; and

Whereas, a Mountains to Sea Trail across North Carolina would offer outstanding recreational opportunities to the State's citizens; would protect riparian buffers and corridors of wildlife habitat along its route; and would possess biological, scenic, and recreational resources of statewide significance; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The General Assembly authorizes the Department of Environment and Natural Resources to add the Mountains to Sea State Park Trail to the State Parks System as provided in G.S. 113-44.14(b). The Mountains to Sea State Park Trail shall be comprised only of those lands or easements which are or will be allocated for management to the Division of Parks and Recreation for this purpose. The Division shall promote, encourage, and facilitate the establishment of dedicated connecting trails through lands managed by other governmental agencies and nonprofit organizations in order to form a continuous trail across the State.

Section 2. At least five business days prior to initiating condemnation proceedings to acquire land for the Mountains to Sea State Park Trail, the Department of Administration shall notify the board of commissioners of the county in which the land is located and, if the land is located in a municipality, the board of commissioners of the municipality. Unless a governing body of a county or municipality notifies the Department of Administration within five business days that it objects to the proceedings, the Department of Administration may initiate the proceedings. The Department of Administration shall not initiate proceedings if a governing body of a county or municipality notifies the Department of Administration within five business days that it objects to the proceedings.

Section 3. Article 2 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"*§ 113-34.1. Power to acquire conservation lands not included in the State Parks System.*

The Department of Administration may acquire and allocate to the Department of Environment and Natural Resources for management by the Division of Parks and Recreation lands that the Department of Environment and Natural Resources finds are important for conservation purposes but which are not included in the State Parks System. Lands acquired pursuant to this section are not subject to Article 2C of Chapter 113 of the General Statutes and may be traded or transferred as necessary to protect, develop, and manage the Mountains to Sea State Park Trail, other State parks, or other conservation lands. This section does not expand the power granted to the Department of Environment and Natural Resources under G.S. 113-34(a) to acquire land by condemnation."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 9:40 a.m. on the 2nd day of August, 2000.

S.B. 1252 **SESSION LAW 2000-158**

AN ACT TO CREATE A TAX INCENTIVE FOR THE REDEVELOPMENT OF BROWNFIELDS PROPERTIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"*§ 105-277.13. Taxation of improvements on brownfields.*

(a) Qualifying improvements on brownfields properties are designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be appraised, assessed, and taxed in accordance with this section. An owner of land is entitled to the partial exclusion provided by this section for the first five taxable years beginning after completion of qualifying improvements made after the later of July 1, 2000, or the date of the brownfields agreement. After property has qualified for the exclusion provided by this section, the assessor for the county in which the property is located shall annually appraise the improvements made to the property during the period of time that the owner is entitled to the exclusion.

(b) For the purposes of this section, the terms "qualifying improvements on brownfields properties" and "qualifying improvements" mean improvements made to real property that is subject to a brownfields agreement entered into by the Department of

Environment and Natural Resources and the owner pursuant to G.S. 130A-310.32.

(c) The following table establishes the percentage of the appraised value of the qualified improvements that is excluded based on the taxable year:

Year	Percent of Appraised Value Excluded
Year 1	90%
Year 2	75%
Year 3	50%
Year 4	30%
Year 5	10%."

Section 2. G.S. 130A-310.34(d) reads as rewritten:

"(d) Prior to entering into a brownfields agreement, the Department shall take into account the comment received during the comment period and at the public meeting if the Department holds a public meeting. The Department shall incorporate into the brownfields agreement provisions that reflect comment received during the comment period and at the public meeting to the extent practical. The Department shall give particular consideration to written comment that is supported by valid scientific and technical information and ~~analysis.~~ analysis and to written comment from the units of local government that have taxing jurisdiction over the brownfields property."

Section 3. Section 1 of this act is effective for taxes imposed for taxable years beginning on or after 1 July 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law upon approval of the Governor at 9:42 a.m. on the 2nd day of August, 2000.

S.B. 1210 **SESSION LAW 2000-159**

AN ACT TO MODIFY THE BASIS FOR ISSUING PERMANENT PLATES TO CHURCH BUSES; TO CREATE THE FUND FOR THE REDUCTION OF CLASS SIZE IN PUBLIC SCHOOLS AND THE LITTER PREVENTION ACCOUNT; TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SEVEN NEW SPECIAL REGISTRATION PLATES; AND TO EXEMPT THE FOLLOWING SPECIAL PLATES FROM THE TEN DOLLAR ADDITIONAL FEE IMPOSED FOR A SPECIAL REGISTRATION PLATE: LEGION OF VALOR, SILVER STAR RECIPIENT, 100% DISABLED VETERAN, AND EX-PRISONER OF WAR; AND TO REQUIRE RED LENSES ON BRAKE LIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b)(13a) is recodified as G.S. 20-79.4(b)(13b).

Section 2. G.S. 20-79.4(b) is amended by adding the following new subdivisions to read:

"(b) Types. -- The Division shall issue the following types of special registration plates:

. . .

(13a) Ducks Unlimited. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the logo of Ducks Unlimited, Inc., and shall bear the words: 'Ducks Unlimited'.

. . .

(16b) Goodness Grows. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the 'Goodness Grows in North Carolina' logo and the phrase 'Agriculture: NC's #1 Industry'.

. . .

(22a) Litter Prevention. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and picture appropriate to the subject of litter prevention in North Carolina.

. . .

(29a) Omega Psi Phi Fraternity. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the fraternity's symbol and name.

. . .

(45a) Support Public Schools. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a picture representing an old-time one-room schoolhouse and shall bear the words: 'Support Our Public Schools'.

(45b) Tobacco Heritage. -- Issuable to the registered owner of a motor vehicle. The plate shall bear a picture of a tobacco leaf and plow. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

Section 3. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. -- Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration ~~plates~~ plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00

Kids First	$25.00
Olympic Games	$25.00
Special Olympics	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Ducks Unlimited	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

Section 4. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. -- The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Animal Lovers	$10	$10	0
Ducks Unlimited	$10	$10	0
Goodness Grows	$10	$10	0
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Kids First	$10	$15	0
Litter Prevention	$10	$10	0
March of Dimes	$10	$10	0
Olympic Games	$10	$15	0
Omega Psi Phi Fraternity	$10	$10	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
~~Special Olympics~~	~~$10~~	~~$15~~	~~0~~
~~Olympic Games~~	~~$10~~	~~$15~~	~~0~~
~~State Attraction~~	~~$10~~	~~$20~~	~~0~~
~~March of Dimes~~	~~$10~~	~~$10~~	~~0~~

Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Special Olympics	$10	$10	0
State Attraction	$10	$20	0
Support Public Schools	$10	$10	0
University Health Systems of Eastern Carolina	$10	$15	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0".

Section 5. G.S. 20-81.12 is amended by adding the following new subsections to read:

"(b12) Support Public Schools Plates. -- The Division must receive 300 or more applications for a Support Public Schools plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Support Public Schools plates to the Fund for the Reduction of Class Size in Public Schools created pursuant to G.S. 115C-472.10.

(b13) Ducks Unlimited Plates. -- The Division must receive 300 or more applications for a Ducks Unlimited plate and receive any necessary licenses from Ducks Unlimited, Inc., for use of their logo before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Ducks Unlimited plates to the Wildlife Resources Commission to be used to support the conservation programs of Ducks Unlimited, Inc., in this State.

(b14) Omega Psi Phi Fraternity Plates. -- The Division must receive 300 or more applications for an Omega Psi Phi Fraternity plate and receive any necessary licenses, without charge, from Omega Psi Phi Fraternity, Incorporated, before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Omega Psi Phi Fraternity plates to the United Negro College Fund, Inc., through the Winston-Salem Area Office for the benefit of UNCF colleges in this State.

(b15) Litter Prevention Plates. -- The Division must receive 300 or more applications for a Litter Prevention plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the litter prevention plates to the Litter Prevention Account created pursuant to G.S. 136-125.1.

(b16) Goodness Grows Plates. -- The Division must receive 300 or more applications for a Goodness Grows plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Goodness Grows plates to the North Carolina Agricultural Promotions, Inc., to be used to promote the sale of North Carolina agricultural products."

Section 6. G.S. 20-81.12(b2) is amended by adding the following new subdivision:

"(b2) State Attraction Plates. -- The Division must receive 300 or more applications for a State attraction plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of State attraction plates to the organizations named below in proportion to the number of State attraction plates sold representing that organization:

. . .

(1b) The North Carolina Maritime Museum. -- The revenue derived from the special plate shall be transferred quarterly to Friends of the Museum, North Carolina Maritime Museum, Inc., to be used for educational programs and conservation programs and for operating expenses of the North Carolina Maritime Museum."

Section 7. G.S. 20-84(b)(9) reads as rewritten:

"(b) Permanent Registration Plates. -- The Division may issue permanent plates for the following motor vehicles:

. . .

(9) A bus owned by a church and used exclusively for transporting individuals to Sunday ~~school and~~ school, to church ~~services.~~ services, and to other church related activities."

Section 8. Chapter 115C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 32C.

"Fund for the Reduction of Class Size in Public Schools.

"*§ 115C-472.10. Establishment of the Fund for the Reduction of Class Size in Public Schools.*

(a) There is established under the control and direction of the State Board of Education the Fund for the Reduction of Class Size in Public Schools. This fund shall be a nonreverting special revenue fund consisting of moneys credited to it under G.S. 20-81.12(b12) from the sale of special registration plates to support the public schools.

(b) The State Board of Education shall allocate funds in the Fund for the Reduction of Class Size in Public Schools to local school administrative units to reduce class size in public schools."

Section 9.(a) Chapter 136 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 10A.

"Litter Prevention Account.

"*§ 136-125.1. Litter Prevention Account.*

There is established under the control and direction of the Department of Transportation the Litter Prevention Account. The Account shall be a nonreverting special revenue account within the Highway Fund and shall consist of moneys credited to the Account under G.S. 20-81.12(b15) from the sale of litter prevention special

registration plates. The Department of Transportation shall allocate the funds in the Account to reduce litter in the State.

"*§ 136-125.2. Report.*

The Department of Transportation shall report no later than October 1 of each year to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission regarding the allocation of funds from the Litter Prevention Account. The report shall include all receipts to and allocations from the Account made during the previous fiscal year and shall explain how each allocation serves to reduce litter in the State."

Section 9.(b) Notwithstanding G.S. 136-125.2, as enacted by this act, the first report required under G.S. 136-125.2 is due no later than October 1, 2002.

Section 9.(c) The Department of Transportation, the Department of Environment and Natural Resources, and the Department of Public Instruction shall cooperatively develop the phrase and picture to be used on the litter prevention special registration plate authorized by G.S. 20-79.6(b)(22a), as enacted by this act.

Section 9.(d) The Legislative Research Commission shall study issues related to the prevention and removal of litter. The Commission shall make a final report of its recommendations regarding the prevention and removal of litter, including any proposed legislation, to the 2001 General Assembly.

Section 10. G.S. 20-129.1(9) reads as rewritten:

"(9) Brake lights (and/or brake reflectors) on the rear of a motor vehicle shall ~~be red.~~ have red lenses so that the light displayed is red. The light illuminating the license plate shall be white. All other lights shall be white, amber, yellow, clear or red."

Section 11. Section 10 of this act becomes effective May 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law upon approval of the Governor at 9:45 a.m. on the 2nd day of August, 2000.

H.B. 1583 **SESSION LAW 2000-160**

AN ACT TO PROVIDE AN INCENTIVE FOR INVESTING IN DRY-CLEANING EQUIPMENT THAT DOES NOT USE HAZARDOUS SUBSTANCES AND TO MODIFY THE AUTHORIZATION FOR INVESTING STATE FUNDS IN RURAL NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"*§ 105-129.16C. Credit for investing in dry-cleaning equipment that does not use a hazardous substance.*

(a) Credit. -- If a taxpayer that has purchased or leased qualified dry-cleaning equipment, places it in service in this State for commercial purposes during the taxable year, the taxpayer is allowed a credit equal to twenty percent (20%) of the cost of the equipment. To support the credit allowed by this section, the taxpayer must file with the tax return for the taxable year in which the credit is claimed a certification by the Department of Environment and Natural Resources that the equipment purchased or leased by the taxpayer is qualified dry-cleaning equipment.

(b) Restrictions. -- No credit is allowed under this section to the extent the cost of the equipment was paid with public funds. A taxpayer that claims any other credit allowed under this Chapter with respect to qualified dry-cleaning equipment may not take the credit allowed in this section with respect to the same equipment.

(c) Definitions. -- The following definitions apply only in this section:

(1) Hazardous solvent. -- A solvent, any portion of which consists of a chlorine-based solvent, a hydrocarbon-based solvent, a hazardous substance as defined in G.S. 130A-310(2), or any substance determined by the Administrator of the Environmental Protection Agency or the Director of the National Institute of Occupational Safety and Health to possess carcinogenic potential to humans.

(2) Qualified dry-cleaning equipment. -- Equipment that is designed and used primarily to dry-clean clothing and other fabric and does not use any hazardous solvent or any other substance that the Department of Environment and Natural Resources determines to pose a threat to human health or the environment."

Section 2. G.S. 147-69.2(b)(9) and (10) read as rewritten:

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

. . .

(9) Obligations and securities of The North Carolina Enterprise Corporation, of the North Carolina Economic Opportunities Fund, or of a limited partnership in which The North Carolina Enterprise Corporation or the North Carolina Economic Opportunities Fund is the only general partner, not to exceed twenty million dollars ($20,000,000) from all ~~funds.~~

~~(10)~~ ~~A~~ funds; and a limited partnership interest in a partnership whose primary purpose is to invest in venture capital or corporate buyout transactions, not to exceed thirty million dollars ($30,000,000) from all funds. These maximum dollar amounts do not apply to or restrict the reinvestment

in accordance with this subdivision of any income from these investments."

Section 3. Section 1 of this act is effective for taxable years beginning on or after July 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 9:46 a.m. on the 2nd day of August, 2000.

H.B. 1493 **SESSION LAW 2000-161**

AN ACT TO PROVIDE CONSUMERS WITH CONTROL OVER TELEPHONE SOLICITATION CALLS TO THEIR HOMES.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds that:

(1) The use of the telephone to market goods and services to consumers is increasing;

(2) Some citizens of this State wish to have a means of controlling these calls to their residences;

(3) The rights to privacy and commercial speech can be balanced in a way that accommodates both the privacy of individuals and legitimate telemarketing practices; and

(4) The public interest requires the establishment of a mechanism under which the citizens of this State can decide whether or not they wish to receive telemarketing calls in their homes.

Section 2. Chapter 75 of the General Statutes is amended by adding a new section to read:

"*§ 75-30.1. Restrictions on telephone solicitations.*

(a) For purposes of this section:

(1) 'Residential telephone subscriber' means a person who subscribes to residential telephone service from a local exchange company and uses that service primarily for residential purposes, or the persons living or residing with that person.

(2) 'Telephone solicitation' means a voice communication over a telephone line to a residential telephone subscriber for the purpose of soliciting or encouraging the purchase or rental of, or investment in, property, goods, or services, or for the purpose of obtaining information that will or may be used for that purpose, but does not include the following communications:

a. To any person with that person's prior express invitation or permission;

b. To any person with whom the telephone solicitor has an established business relationship; or

c. By or on behalf of a tax-exempt nonprofit organization.

(3) 'Telephone solicitor' means any business or other legal entity doing business in this State that makes telephone solicitations or causes telephone solicitations to be made.

(b) Any telephone solicitor who makes a telephone solicitation to a residential telephone subscriber shall:

(1) At the beginning of the call, state clearly the identity of the business, individual, or other legal entity initiating the call, and identify the person making the call by that person's name.

(2) Upon request, provide the telephone subscriber with the telephone number or address at which the person or entity may be contacted.

(3) Terminate the call if the person does not consent to the call.

(4) If the person called requests to be taken off the contact list of the telephone solicitor, take all steps necessary to remove that person's name and telephone number from the contact records of the business, individual, or other legal entity initiating the call.

(c) Every telephone solicitor who makes telephone solicitations in this State shall implement in-house systems and procedures designed to prevent further calls to persons who have asked not to be called again. Compliance with 47 C.F.R. § 64.1200(e) of the Federal Communications Commission's Restrictions on Telephone Solicitation constitutes compliance with this subsection.

(d) No telephone solicitor shall initiate a call to a residential telephone subscriber who has communicated to that telephone solicitor a desire to be taken off the contact list of that solicitor.

(e) No telephone solicitor shall initiate a call to a residential telephone subscriber after 9:00 P.M. or before 8:00 A.M. at the called party's location.

(f) No telephone solicitor who makes a telephone solicitation to the telephone line of a residential telephone subscriber in this State shall knowingly use any method to block or otherwise circumvent that subscriber's use of a caller identification service. A telephone solicitor who makes a telephone solicitation to the telephone line of a residential subscriber through the use of a private branch exchange (PBX) or other call-generating system that is not capable of transmitting caller identification information shall not be in violation of this subsection. No provider of telephone caller identification services shall be held liable for violations of this subsection committed by other persons or entities.

(g) Every telephone solicitor who makes telephone solicitations in this State shall keep a record for a period of 24 months from the date a call is placed of the legal name and any fictitious name used, resident address, telephone number, and job title of each person who places a telephone solicitation for that telephone solicitor. If callers for a telephone solicitor use fictitious names, each fictitious name shall be traceable to only one specific caller.

(h) The Attorney General may investigate any complaints received alleging violations of subsections (b) through (g) of this section. If, after investigating a complaint, the Attorney General finds that there has been a violation of subsections (b) through (g) of this section, the Attorney General may bring an action to impose a civil penalty and to seek any other appropriate relief, including equitable relief to restrain the violation pursuant to G.S. 75-14. Actions for civil penalties under this section shall be consistent with the provisions of G.S. 75-15.2, except that the penalty imposed for a violation of this section shall not exceed five hundred dollars ($500.00) per violation.

(i) A person who has received more than one telephone solicitation within any 12-month period by or on behalf of the same telephone solicitor in violation of subsections (b) through (g) of this section may bring either or both of the following actions in the General Court of Justice:

(1) An action to enjoin further violations.

(2) An action to recover five hundred dollars ($500.00) in damages for each violation.

In an action brought pursuant to this section, a prevailing plaintiff shall be entitled to recover reasonable attorneys' fees, and the court may award reasonable attorneys' fees to a prevailing defendant if the court finds that the plaintiff knew, or should have known, that the action was frivolous and malicious.

(j) A citizen of this State is also entitled to bring an action in the General Court of Justice to enforce the private rights of action established by federal law under 47 U.S.C. § 227(b)(3) and 47 U.S.C. § 227(c)(5).

(k) Actions brought pursuant to subsections (i) and (j) of this section shall be tried in the county where the plaintiff resides at the time of the commencement of the action."

Section 3. Chapter 62 of the General Statutes is amended by adding a new section to read:

"*§ 62-53. Notification of opportunity to object to telephone solicitation.*

The Commission shall require each local exchange company to notify all persons who subscribe to residential service from that company of the provisions of G.S. 75-30.1, of the federal laws allowing consumers to object to receiving telephone solicitations, and of programs made available by private industry that allow consumers to have their names removed from telemarketing lists, by enclosing that information, at least annually, in every telephone bill mailed to residential customers. The Commission shall also ensure that this information is printed in a clear, conspicuous manner in the consumer information pages of each telephone directory distributed to residential customers."

Section 4. This act becomes effective October 1, 2000, and applies to telephone calls made on or after that date. Section 3 applies to all telephone directories printed on or after that date.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law upon approval of the Governor at 9:49 a.m. on the 2nd day of August, 2000.

H.B. 1340 **SESSION LAW 2000-162**

AN ACT TO ESTABLISH THE RESPIRATORY CARE PRACTICE ACT, TO PROVIDE FOR THE PROMPT PAYMENT OF CLAIMS UNDER HEALTH BENEFIT PLANS, AND TO MAKE CONFORMING AMENDMENTS TO RELATED CLAIM PAYMENT LAWS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 38.

"Respiratory Care Practice Act.

"*§ 90-646. Short title.*

This Article may be cited as the 'Respiratory Care Practice Act'.

"*§ 90-647. Purpose.*

The General Assembly finds that the practice of respiratory care in the State of North Carolina affects the public health, safety, and welfare and that the mandatory licensure of persons who engage in respiratory care is necessary to ensure a minimum standard of competency. It is the purpose and intent of this Article to protect the public from the unqualified practice of respiratory care and from unprofessional conduct by persons licensed pursuant to this Article.

"*§ 90-648. Definitions.*

The following definitions apply in this Article:

(1) Board. -- The North Carolina Respiratory Care Board.

(2) Diagnostic testing. -- Cardiopulmonary procedures and tests performed on the written order of a physician licensed under Article 1 of this Chapter that provide information to the physician to formulate a diagnosis of the patient's condition. The tests and procedures may include pulmonary function testing, electrocardiograph testing, cardiac stress testing, and sleep related testing.

(3) Direct supervision. -- The authority and responsibility to direct the performance of activities as established by policies and procedures for safe and appropriate completion of services.

(4) Individual. -- A human being.

(5) License. -- A certificate issued by the Board recognizing the person named therein as having met the requirements to practice respiratory care as defined in this Article.

(6) Licensee. -- A person who has been issued a license under this Article.

(7) Medical director. -- An appointed physician who is licensed under Article 1 of this Chapter and a member of the entity's medical staff, and who is granted the authority and

responsibility for assuring and establishing policies and procedures and that the provision of such is provided to the quality, safety, and appropriateness standards as recognized within the defined scope of practice for the entity.

(8) Person. -- An individual, corporation, partnership, association, unit of government, or other legal entity.

(9) Physician. -- A doctor of medicine licensed by the State of North Carolina in accordance with Article 1 of this Chapter.

(10) Practice of respiratory care. -- As defined by the written order of a physician licensed under Article 1 of this Chapter, the observing and monitoring of signs and symptoms, general behavior, and general physical response to respiratory care treatment and diagnostic testing, including the determination of whether such signs, symptoms, reactions, behavior, or general response exhibit abnormal characteristics, and the performance of diagnostic testing and therapeutic application of:

a. Medical gases, humidity, and aerosols including the maintenance of associated apparatus, except for the purpose of anesthesia.

b. Pharmacologic agents related to respiratory care procedures, including those agents necessary to perform hemodynamic monitoring.

c. Mechanical or physiological ventilatory support.

d. Cardiopulmonary resuscitation and maintenance of natural airways, the insertion and maintenance of artificial airways under the direct supervision of a recognized medical director in a health care environment which identifies these services within the scope of practice by the facility's governing board.

e. Hyperbaric oxygen therapy.

f. New and innovative respiratory care and related support activities in appropriately identified environments and under the training and practice guidelines established by the American Association of Respiratory Care.

The term also means the interpretation and implementation of a physician's written or verbal order pertaining to the acts described in this subdivision.

(11) Respiratory care. -- As defined by the written order of a physician licensed under Article 1 of Chapter 90, the treatment, management, diagnostic testing, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system.

(12) Respiratory care practitioner. -- A person who has been licensed by the Board to engage in the practice of respiratory care.

(13) Support activities. -- Procedures that do not require formal academic training, including the delivery, setup, and maintenance of apparatus. The term also includes giving instructions on the use, fitting, and application of apparatus, but does not include therapeutic evaluation and assessment.

"*§ 90-649. North Carolina Respiratory Care Board; creation.*

(a) The North Carolina Respiratory Care Board is created. The Board shall consist of 10 members as follows:

(1) Two members shall be respiratory care practitioners.

(2) Four members shall be physicians licensed to practice in North Carolina, and whose primary practice is Pulmonology, Anesthesiology, Critical Care Medicine, or whose specialty is Cardiothoracic Disorders.

(3) One member shall represent the NCHA.

(4) One member shall represent the North Carolina Association of Medical Equipment Services.

(5) Two members shall represent the public at large.

(b) Members of the Board shall be citizens of the United States and residents of this State. The respiratory care practitioner members shall have practiced respiratory care for at least five years and shall be licensed under this Article. The public members shall not be: (i) a respiratory care practitioner, (ii) an agent or employee of a person engaged in the profession of respiratory care, (iii) a health care professional licensed under this Chapter or a person enrolled in a program to become a licensed health care professional, (iv) an agent or employee of a health care institution, a health care insurer, or a health care professional school, (v) a member of an allied health profession or a person enrolled in a program to become a member of an allied health profession, or (vi) a spouse of an individual who may not serve as a public member of the Board.

"*§ 90-650. Appointments and removal of Board members; terms and compensation.*

(a) The members of the Board shall be appointed as follows:

(1) The Governor shall appoint the public members described in G.S. 90-649(a)(5).

(2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint one of the respiratory care practitioner members described in G.S. 90-649(a)(1) and one of the physician members described in G.S. 90-649(a)(2) in accordance with G.S. 120-121.

(3) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint one of the respiratory care practitioner members described in G.S. 90-649(a)(1) and one of the physician members described in G.S. 90-649(a)(2) in accordance with G.S. 120-121.

(4) The North Carolina Medical Society shall appoint one of the physician members described in G.S. 90-649(a)(2).

(5) The Old North State Medical Society shall appoint one of the physician members described in G.S. 96-649(a)(2).

(6) The North Carolina Hospital Association shall appoint the member described in G.S. 90-649(a)(3).

(7) The North Carolina Association of Medical Equipment Services shall appoint the member described in G.S. 90-649(a)(4).

(b) Members of the Board shall take office on the first day of November immediately following the expired term of that office and shall serve for a term of three years and until their successors are appointed and qualified. No member shall serve on the Board for more than two consecutive terms.

(c) The Governor may remove members of the Board, after notice and an opportunity for hearing, for incompetence, neglect of duty, unprofessional conduct, conviction of any felony, failure to meet the qualifications of this Article, or committing any act prohibited by this Article.

(d) Any vacancy shall be filled by the authority originally filling that position, except that any vacancy in appointments by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(e) Members of the Board shall receive no compensation for their services but shall be entitled to travel, per diem, and other expenses authorized by G.S. 93B-5.

(f) Individual members shall be immune from civil liability arising from activities performed within the scope of their official duties.

"*§ 90-651. Election of officers; meetings of the Board.*

(a) The Board shall elect a chair and a vice-chair who shall hold office according to rules adopted pursuant to this Article, except that all officers shall be elected annually by the Board for one-year terms and shall serve until their successors are elected and qualified.

(b) The Board shall hold at least two regular meetings each year as provided by rules adopted pursuant to this Article. The Board may hold additional meetings upon the call of the chair or any two Board members. A majority of the Board membership shall constitute a quorum.

"*§ 90-652. Powers and duties of the Board.*

The Board shall have the power and duty to:

(1) Determine the qualifications and fitness of applicants for licensure, renewal of licensure, and reciprocal licensure.

(2) Establish and adopt rules necessary to conduct its business, carry out its duties, and administer this Article.

(3) Adopt and publish a code of ethics.

(4) Deny, issue, suspend, revoke, and renew licenses in accordance with this Article.

(5) Conduct investigations, subpoena individuals and records, and do all other things necessary and proper to discipline

persons licensed under this Article and to enforce this Article.

(6) Employ professional, clerical, investigative, or special personnel necessary to carry out the provisions of this Article and purchase or rent office space, equipment, and supplies.

(7) Adopt a seal by which it shall authenticate its proceedings, official records, and licenses.

(8) Conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.

(9) Establish certain reasonable fees as authorized by this Article for applications for examination, licensure, provisional licensure, renewal of licensure, and other services provided by the Board.

(10) Submit an annual report to the North Carolina Medical Board, the North Carolina Hospital Association, the North Carolina Society of Respiratory Care, the Governor, and the General Assembly of all the Board's official actions during the preceding year, together with any recommendations and findings regarding improvements of the practice of respiratory care.

(11) Publish and make available upon request the licensure standards prescribed under this Article and all rules adopted pursuant to this Article.

(12) Request and receive the assistance of State educational institutions or other State agencies.

(13) Establish and approve continuing education requirements for persons seeking licensure under this Article.

"*§ 90-653. Licensure requirements; examination.*

(a) Each applicant for licensure under this Article shall meet the following requirements:

(1) Submit a completed application as required by the Board.

(2) Submit any fees required by the Board.

(3) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements of a respiratory care education program as approved by the Commission for Accreditation of Allied Health Educational Programs.

(4) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements for Basic Cardiac Life Support as recognized by the American Heart Association.

(5) Pass the entry-level examination given by the National Board for Respiratory Care, Inc.

(b) At least three times each year, the Board shall cause the examination required in subdivision (5) of subsection (a) of this section to be given to applicants at a time and place to be announced by the Board. Any applicant who fails to pass the first examination

may take additional examinations in accordance with rules adopted pursuant to this Article.

"*§ 90-654. Exemption from certain requirements.*

(a) The Board may issue a license to an applicant who, as of October 1, 2000, has passed the entry-level examination given by the National Board for Respiratory Care, Inc. An applicant applying for licensure under this subsection shall submit his or her application to the Board before October 1, 2002.

(b) The Board may grant a temporary license to an applicant who, as of October 1, 2000, does not meet the qualifications of G.S. 90-653 but, through written evidence verified by oath, demonstrates that he or she is performing the duties of a respiratory care practitioner within the State. The temporary license is valid until October 1, 2002, within which time the applicant shall be required to complete the requirements of G.S. 90-653(a)(5). A license granted under this subsection shall contain an endorsement indicating that the license is temporary and shall state the date the license was granted and the date it expires.

"*§ 90-655. Licensure by reciprocity.*

The Board may grant, upon application and the payment of proper fees, a license to a person who, at the time of application holds a valid license, certificate, or registration as a respiratory care practitioner issued by another state or a political territory or jurisdiction acceptable to the Board if, in the Board's determination, the requirements for that license, certificate, or registration are substantially the same as the requirements for licensure under this Article.

"*§ 90-656. Provisional license.*

The Board may grant a provisional license for a period not exceeding 12 months to any applicant who has successfully completed the education requirements under G.S. 90-653(a)(3) and has made application to take the examination required under G.S. 90-653(a)(5). A provisional license allows the individual to practice respiratory care under the supervision of a respiratory care practitioner and in accordance with rules adopted pursuant to this Article. A license granted under this section shall contain an endorsement indicating that the license is provisional and stating the terms and conditions of its use by the licensee and shall state the date the license was granted and the date it expires.

"*§ 90-657. Notification of applicant following evaluation of application.*

After evaluation of the application and of any other evidence required from the applicant by the Board, the Board shall notify each applicant that the application and evidence submitted are satisfactory and accepted or unsatisfactory and rejected. If the application and evidence is rejected, the notice shall state the reasons for the rejection.

"*§ 90-658. License as property of the Board; display requirement; renewal; inactive status.*

(a) A license issued by the Board is the property of the Board and shall be surrendered by the licensee to the Board on demand.

(b) The licensee shall display the license in the manner prescribed by the Board.

(c) The licensee shall inform the Board of any change of the licensee's address.

(d) The license shall be renewed by the Board annually upon the payment of a renewal fee if, at the time of application for renewal, the applicant is not in violation of this Article and has fulfilled the current requirements regarding continuing education as established by rules adopted pursuant to this Article.

(e) The Board shall notify a licensee at least 30 days in advance of the expiration of his or her license. Each licensee is responsible for renewing his or her license before the expiration date. Licenses that are not renewed automatically lapse.

(f) The Board may provide for the late renewal of an automatically lapsed license upon the payment of a late fee. No late fee renewal may be granted more than five years after a license expires.

(g) In accordance with rules adopted pursuant to this Article, a licensee may request that his or her license be declared inactive and may thereafter apply for active status.

"*§ 90-659. Suspension, revocation, and refusal to renew a license.*

(a) The Board shall take the necessary actions to deny or refuse to renew a license, suspend or revoke a license, or to impose probationary conditions on a licensee or applicant if the licensee or applicant:

(1) Has engaged in any of the following conduct:
   a. Employed fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or the renewal of a license.
   b. Committed an act of malpractice, gross negligence, or incompetence in the practice of respiratory care.
   c. Practiced respiratory care without a license.
   d. Engaged in health care practices that are determined to be hazardous to public health, safety, or welfare.

(2) Was convicted of or entered a plea of guilty or nolo contendere to any crime involving moral turpitude.

(3) Was adjudicated insane or incompetent, until proof of recovery from the condition can be established.

(4) Engaged in any act or practice that violates any of the provisions of this Article or any rule adopted pursuant to this Article, or aided, abetted, or assisted any person in such a violation.

(b) Denial, refusal to renew, suspension, or revocation of a license, or imposition of probationary conditions upon a licensee may be ordered by the Board after a hearing held in accordance with Article 3A of Chapter 150B of the General Statutes and rules adopted pursuant to this Article. An application may be made to the Board for reinstatement of a revoked license if the revocation has been in effect for at least one year.

"*§ 90-660. Expenses; fees.*

(a) All salaries, compensation, and expenses incurred or allowed for carrying out the purposes of this Article shall be paid by the Board exclusively out of the fees received by the Board as authorized by this Article or funds received from other sources. In no case shall any salary, expense, or other obligations of the Board be charged against the State.

(b) All monies received by the Board pursuant to this Article shall be deposited in an account for the Board and shall be used for the administration and implementation of this Article. The Board shall establish fees in amounts to cover the cost of services rendered for the following purposes:

(1) For an initial application, a fee not to exceed twenty-five dollars ($25.00).

(2) For examination or reexamination, a fee not to exceed one hundred fifty dollars ($150.00).

(3) For issuance of any license, a fee not to exceed one hundred dollars ($100.00).

(4) For the renewal of any license, a fee not to exceed fifty dollars ($50.00).

(5) For the late renewal of any license, an additional late fee not to exceed fifty dollars ($50.00).

(6) For a license with a provisional or temporary endorsement, a fee not to exceed thirty-five dollars ($35.00).

(7) For copies of rules adopted pursuant to this Article and licensure standards, charges not exceeding the actual cost of printing and mailing.

"§ *90-661. Requirement of license.*

After October 1, 2002, it shall be unlawful for any person who is not currently licensed under this Article to:

(1) Engage in the practice of respiratory care.

(2) Use the title 'respiratory care practitioner'.

(3) Use the letters 'RCP', 'RTT', 'RT', or any facsimile or combination in any words, letters, abbreviations, or insignia.

(4) Imply orally or in writing or indicate in any way that the person is a respiratory care practitioner or is otherwise licensed under this Article.

(5) Employ or solicit for employment unlicensed persons to practice respiratory care.

"§ *90-662. Violation a misdemeanor.*

Any person who violates any provision of this Article shall be guilty of a Class 1 misdemeanor.

"§ *90-663. Injunctions.*

The Board may apply to the superior court for an order enjoining violations of this Article, and upon a showing by the Board that any person has violated or is about to violate this Article, the court may grant an injunction or restraining order or take other appropriate action.

"§ *90-664. Persons and practices not affected.*

The requirements of this Article shall not apply to:

(1) Any person registered, certified, credentialed, or licensed to engage in another profession or occupation or any person working under the supervision of a person registered, certified, credentialed, or licensed to engage in another profession or occupation in this State who is performing work incidental to or within the practice of that profession or occupation and does not represent himself or herself as a respiratory care practitioner.

(2) A student or trainee working under the direct supervision of a respiratory care practitioner while fulfilling an experience requirement or pursuing a course of study to meet requirements for licensure in accordance with rules adopted pursuant to this Article.

(3) A respiratory care practitioner serving in the armed forces or the Public Health Service of the United States or employed by the Veterans Administration when performing duties associated with that service or employment.

(4) A person who performs only support activities as defined in G.S. 90-648(13).

"*§ 90-665. Third-party reimbursement.*

Nothing in this Article shall be construed to require direct third-party reimbursements to persons licensed under this Article."

Section 2. G.S. 120-123 is amended by adding a new subdivision to read:

"(70) The North Carolina Respiratory Care Board as created by Article 37 of Chapter 90 of the General Statutes."

Section 3. The initial appointments to the North Carolina Respiratory Care Board, created in G.S. 90-649, as enacted in Section 1 of this act, shall be appointed no later than October 1, 2000. Notwithstanding the provisions of G.S. 90-649(b), as enacted in Section 1 of this act, the initial members of the North Carolina Respiratory Care Board who are appointed pursuant to G.S. 90-649(a)(1) must have passed the entry-level examination administered by the National Board for Respiratory Care, Inc. Notwithstanding the provisions of G.S. 90-650(b), as enacted in Section 1 of this act, of the initial appointments to the North Carolina Respiratory Care Board, one of the members appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, and one of the members appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall be appointed for three-year terms; one of the members appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, and one of the members appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall be appointed for two-year terms; the public members appointed by the Governor shall be appointed for a one-year term; the physician member appointed by the North Carolina Medical Society shall be appointed for a one-year term; the physician member appointed by the Old North State Medical Society shall be

appointed for a one-year term; and the members appointed by the North Carolina Hospital Association and the North Carolina Association of Medical Equipment Services shall be appointed for one-year terms.

Section 4.(a) Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-3-225. Prompt claim payments under health benefit plans.*

(a) As used in this section:

(1) 'Health benefit plan' means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, as amended, or by any waiver of or other exception to that act provided under federal law or regulation. 'Health benefit plan' does not mean any plan implemented or administered by the North Carolina or United States Department of Health and Human Services, or any successor agency, or its representatives. 'Health benefit plan' also does not mean any of the following kinds of insurance:

a. Credit.
b. Disability income.
c. Coverage issued as a supplement to liability insurance.
d. Hospital income or indemnity.
e. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability policy or equivalent self-insurance.
f. Long-term or nursing home care.
g. Medical payments under motor vehicle or homeowners' insurance policies.
h. Medicare supplement.
i. Short-term limited duration health insurance policies as defined in Part 144 of Title 45 of the Code of Federal Regulations.
j. Workers' compensation.

(2) 'Claimant' includes a health care provider or facility that is responsible or permitted under contract with the insurer or by valid assignment of benefits for directly making the claim with an insurer.

(3) 'Health care facility' means a facility that is licensed under Chapter 131E or Chapter 122C of the General Statutes or is owned or operated by the State of North Carolina in which health care services are provided to patients.

(4) 'Health care provider' means an individual who is licensed, certified, or otherwise authorized under Chapter 90 or 90B of the General Statutes to provide health care services in the

ordinary course of business or practice of a profession or in an approved education or training program.

(5) 'Insurer' includes an insurance company subject to this Chapter, a service corporation organized under Article 65 of this Chapter, a health maintenance organization organized under Article 67 of this Chapter, or a multiple employer welfare arrangement subject to Article 49 of this Chapter, that writes a health benefit plan.

(b) An insurer shall, within 30 calendar days after receipt of a claim, send by electronic or paper mail to the claimant:

(1) Payment of the claim.

(2) Notice of denial of the claim.

(3) Notice that the proof of loss is inadequate or incomplete.

(4) Notice that the claim is not submitted on the form required by the health benefit plan, by the contract between the insurer and health care provider or health care facility, or by applicable law.

(5) Notice that coordination of benefits information is needed in order to pay the claim.

(6) Notice that the claim is pending based on nonpayment of fees or premiums.

For purposes of this section, an insurer is presumed to have received a written claim five business days after the claim has been placed first-class postage prepaid in the United States mail addressed to the insurer or an electronic claim transmitted to the insurer or a designated clearinghouse on the day the claim is electronically transmitted. The presumption may be rebutted by sufficient evidence that the claim was received on another day or not received at all.

(c) If the claim is denied, the notice shall include all of the specific good faith reason or reasons for the denial, including, without limitation, coordination of benefits, lack of eligibility, or lack of coverage for the services provided. If the claim is contested or cannot be paid because the proof of loss is inadequate or incomplete, or not paid pending receipt of requested coordination of benefits information, the notice shall contain the specific good faith reason or reasons why the claim has not been paid and an itemization or description of all of the information needed by the insurer to complete the processing of the claim. If all or part of the claim is contested or cannot be paid because of the application of a specific utilization management or medical necessity standard is not satisfied, the notice shall contain the specific clinical rationale for that decision or shall refer to specific provisions in documents that are made readily available through the insurer which provide the specific clinical rationale for that decision; however, if a notice of noncertification has already been provided under G.S. 58-50-61(h), then the specific clinical rationale for the decision is not required under this subsection. If the claim is contested or cannot be paid because of nonpayment of premiums, the notice shall contain a statement advising the claimant of the nonpayment of premiums. If a claim is not paid pending receipt of

requested coordination of benefits information, the notice shall so specify. If a claim is denied or contested in part, the insurer shall pay the undisputed portion of the claim within 30 calendar days after receipt of the claim and send the notice of the denial or contested status within 30 days after receipt of the claim. If a claim is contested or cannot be paid because the claim was not submitted on the required form, the notice shall contain the required form, if the form is other than a UB or HCFA form, and instructions to complete that form. Upon receipt of additional information requested in its notice to the claimant, the insurer shall continue processing the claim and pay or deny the claim within 30 days after receiving the additional information.

(d) If an insurer requests additional information under subsection (c) of this section and the insurer does not receive the additional information within 90 days after the request was made, the insurer shall deny the claim and send the notice of denial to the claimant in accordance with subsection (c) of this section. The insurer shall include the specific reason or reasons for denial in the notice, including the fact that information that was requested was not provided. The insurer shall inform the claimant in the notice that the claim will be reopened if the information previously requested is submitted to the insurer within one year after the date of the denial notice closing the claim.

(e) Health benefit plan claim payments that are not made in accordance with this section shall bear interest at the annual percentage rate of eighteen percent (18%) beginning on the date following the day on which the claim should have been paid. If additional information was requested by the insurer under subsection (b) of this section, interest on health benefit claim payments shall begin to accrue on the 31st day after the insurer received the additional information. A payment is considered made on the date upon which a check, draft, or other valid negotiable instrument is placed in the United States Postal Service in a properly addressed, postpaid envelope, or, if not mailed, on the date of the electronic transfer or other delivery of the payment to the claimant. This subsection does not apply to claims for benefits that are not covered by the health benefit plan; nor does this subsection apply to deductibles, co-payments, or other amounts for which the insurer is not liable.

(f) Insurers may require that claims be submitted within 180 days after the date of the provision of care to the patient by the health care provider and, in the case of health care provider facility claims, within 180 days after the date of the patient's discharge from the facility. However, an insurer may not limit the time in which claims may be submitted to fewer than 180 days. Unless otherwise agreed to by the insurer and the claimant, failure to submit a claim within the time required does not invalidate or reduce any claim if it was not reasonably possible for the claimant to file the claim within that time, provided that the claim is submitted as soon as reasonably possible and in no event, except in the absence of legal capacity of the insured,

later than one year from the time submittal of the claim is otherwise required.

(g) If a claim for which the claimant is a health care provider or health care facility has not been paid or denied within 60 days after receipt of the initial claim, the insurer shall send a claim status report to the insured. Provided, however, that the claims status report is not required during the time an insurer is awaiting information requested under subsection (c) of this section. The report shall indicate that the claim is under review and the insurer is communicating with the health care provider or health care facility to resolve the matter. While a claim remains unresolved, the insurer shall send a claim status report to the insured with a copy to the provider 30 days after the previous report was sent.

(h) To the extent permitted by the contract between the insurer and the health care provider or health care facility, the insurer may recover overpayments made to the health care provider or health care facility by making demands for refunds and by offsetting future payments. Any such recoveries may also include related interest payments that were made under the requirements of this section. Recoveries by the insurer must be accompanied by the specific reason and adequate information to identify the specific claim. To the extent permitted by the contract between the insurer and the health care provider or health care facility, the health care provider or health care facility may recover underpayments or nonpayments by the insurer by making demands for refunds. Any such recoveries by the health care provider or health care facility of underpayments or nonpayment by the insurer may include applicable interest under this section. The period for which such recoveries may be made may be specified in the contract between the insurer and health care provider or health care facility.

(i) Every insurer shall maintain written or electronic records of its activities under this section, including records of when each claim was received, paid, denied, or pended, and the insurer's review and handling of each claim under this section, sufficient to demonstrate compliance with this section.

(j) A violation of this section by an insurer subjects the insurer to the sanctions in G.S. 58-2-70. The authority of the Commissioner under this subsection does not impair the right of a claimant to pursue any other action or remedy available under law. With respect to a specific claim, an insurer paying statutory interest in good faith under this section is not subject to sanctions for that claim under this subsection.

(k) An insurer is not in violation of this section nor subject to interest payments under this section if its failure to comply with this section is caused in material part by (i) the person submitting the claim, or (ii) by matters beyond the insurer's reasonable control, including an act of God, insurrection, strike, fire, or power outages. In addition, an insurer is not in violation of this section or subject to interest payments to the claimant under this section if the insurer has

a reasonable basis to believe that the claim was submitted fraudulently and notifies the claimant of the alleged fraud.

(l) This section does not apply to claims processed by an insurer on a claims adjudication system that was implemented prior to January 1, 1982, provided that the insurer:

(1) Verifies with the Commissioner that its claims adjudication system qualifies under this subsection; and

(2) Is implementing a new claims adjudication software system and is proceeding in good faith to move all claims to the new system as soon as possible and in any event no later than December 31, 2002.

This subsection expires January 1, 2003.

(m) Nothing in this section limits or impairs the patient's liability under existing law for payment of medical expenses."

Section 4.(b) G.S. 58-3-100(c) reads as rewritten:

"(c) The Commissioner may impose a civil penalty under G.S. 58-2-70 if an HMO, service corporation, MEWA, or insurer fails to acknowledge a claim within 30 days after receiving written or electronic notice of the claim, but only if the notice contains sufficient information for the insurer to identify the specific coverage involved. Acknowledgement of the claim shall be made to the claimant or his legal representative advising that the claim is being investigated; or shall be a payment of the claim; or shall be a bona fide written offer of settlement; or shall be a written denial of the claim. A claimant includes an insured, a health care provider, or a health care facility that is responsible for directly making the claim with an insurer. This subsection does not apply to insurers subject to G.S. 58-3-225."

Section 4.(c) G.S. 58-3-172(a) reads as rewritten:

"(a) For all claims denied for health care provider services under health benefit plans, written notification of the denied claim shall be given to the insured and to the health care provider submitting the claim if the health care provider would otherwise be eligible for payment. This subsection does not apply to insurers subject to G.S. 58-3-225."

Section 4.(d) G.S. 58-51-15(a)(7) reads as rewritten:

"(7) A provision in the substance of the following language: PROOFS OF LOSS: Written proof of loss must be furnished to the insurer at its said office in the case of a claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ~~90~~ 180 days after the termination of the period for which the insurer is liable and in case of a claim for any other loss within ~~90~~ 180 days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal ~~capacity,~~ capacity of

the insured, later than one year from the time proof is otherwise required."

Section 5. Section 4 of this act becomes effective July 1, 2001, and applies to claims received on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 9:50 a.m. on the 2nd day of August, 2000.

S.B. 1184 **SESSION LAW 2000-163**

AN ACT TO ESTABLISH A VOLUNTARILY FUNDED STATEWIDE SPAY/NEUTER PROGRAM TO PROVIDE EDUCATION ON THE BENEFITS OF SPAYING AND NEUTERING PETS AND TO PROVIDE FINANCIAL ASSISTANCE TO COUNTIES AND CITIES OFFERING LOW-INCOME PERSONS REDUCED-COST SPAY/NEUTER SERVICES FOR DOGS AND CATS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 19A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 5.

"Spay/Neuter Program.

"*§ 19A-50. Legislative findings.*

The General Assembly finds that the uncontrolled breeding of cats and dogs in the State has led to unacceptable numbers of unwanted dogs, puppies and cats and kittens. These unwanted animals become strays and constitute a public nuisance and a public health hazard. The animals themselves suffer privation and death, are impounded, and most are destroyed at great expense to local governments. It is the intention of the General Assembly to provide a voluntary means of funding a spay/neuter program to provide financial assistance to local governments offering low-income persons reduced-cost spay/neuter services for their dogs and cats and to provide a statewide education program on the benefits of spaying and neutering pets.

"*§ 19A-51. Spay/Neuter Program established.*

There is established in the Department of Health and Human Services a statewide program to foster the spaying and neutering of dogs and cats for the purpose of reducing the population of unwanted animals in the State. The program shall consist of the following components:

(1) Education Program. -- The Department shall establish a statewide program to educate the public about the benefits of having cats and dogs spayed and neutered. The Department may work cooperatively on the program with the North Carolina School of Veterinary Medicine, other State agencies and departments, county and city health departments and

animal control agencies, and statewide and local humane organizations. The Department may employ outside consultants to assist with the education program.

(2) Local Spay/Neuter Assistance Program. -- The Department shall administer the Spay/Neuter Account established in G.S. 19A-52. Monies deposited in the account shall be available to reimburse eligible counties and cities for the direct costs of spay/neuter surgeries for cats and dogs made available to low-income persons.

"*§ 19A-52. Spay/Neuter Account established.*

(a) Creation. -- The Spay/Neuter Account is established as a nonreverting special revenue account in the Department of Health and Human Services. The Account consists of the following:

(1) Fifty cents (50¢) of the fee imposed by G.S. 130A-190(c) on the costs of obtaining rabies vaccination tags from the Department of Health and Human Services.

(2) Ten dollars ($10.00) of the additional fee imposed by G.S. 20-79.7 for an Animal Lovers special license plate.

(3) Any other funds available from appropriations by the General Assembly or from contributions and grants from public or private sources.

(b) Use. -- The revenue in the Account shall be used by the Department of Health and Human Services as follows:

(1) Twenty percent (20%) shall be used to develop and implement the statewide education program component of the Spay/Neuter Program established in G.S. 19A-51(a).

(2) Up to twenty percent (20%) of the money in the Account may be used to defray the costs of administering the Spay/Neuter Program established in this Article.

(3) Funds remaining after deductions for the education program and administrative expenses shall be distributed quarterly to eligible counties and cities seeking reimbursement for reduced-cost spay/neuter surgeries performed during the previous year.

"*§ 19A-53. Eligibility for distributions from Spay/Neuter Account.*

(a) A county or city is eligible for reimbursement from the Spay/Neuter Account if it meets the following condition:

(1) The county or city offers one or more of the following programs to low-income persons on a year-round basis for the purpose of reducing the cost of spaying and neutering procedures for dogs and cats:

a. A spay/neuter clinic operated by the county or city.

b. A spay/neuter clinic operated by a private organization under contract or other arrangement with the county or city.

c. A contract or contracts with one or more veterinarians, whether or not located within the county, to provide reduced-cost spaying and neutering procedures.

d. Subvention of the spaying and neutering costs incurred by low-income pet owners through the use of vouchers or other procedure that provides a discount of the cost of the spaying or neutering procedure fixed by a participating veterinarian or other provider.

e. Subvention of the spaying and neutering costs incurred by persons who adopt a pet from an animal shelter operated by or under contract with the county or city.

(b) For purposes of this Article, the term "low-income person" shall mean an individual who qualifies for one or more of the programs of public assistance administered by the Department pursuant to Chapter 108A of the General Statutes.

"§ *19A-54. Distributions to counties and cities from Spay/Neuter Account.*

(a) Reimbursable Costs. -- Counties and cities eligible for distributions from the Spay/Neuter Account may receive reimbursement for the direct costs of a spay/neuter surgical procedure for a dog or cat owned by a low-income person meeting the Department's eligibility requirements for spay/neuter services. Reimbursable costs shall include anesthesia, medication, and veterinary services. Counties and cities shall not be reimbursed for the administrative costs of providing reduced-cost spay/neuter services or capital expenditures for facilities and equipment associated with the provision of such services.

(b) Application. -- A county or city eligible for reimbursement of spaying and neutering costs from the Spay/Neuter Account shall apply to the Department of Health and Human Services by the last day of January, April, July, and October of each year to receive a distribution from the Account for that quarter. The application shall be submitted in the form required by the Department and shall include an itemized listing of the costs for which reimbursement is sought.

(c) Distribution. -- The Department shall make payments from the Spay/Neuter Account to eligible counties and cities who have made timely application for reimbursement within 30 days of the closing date for receipt of applications for that quarter. In the event that total requests for reimbursement exceed the amounts available in the Spay/Neuter Account for distribution, the monies available will be distributed as follows:

(1) Fifty percent (50%) of the monies available in the Spay/Neuter Account shall be reserved for reimbursement for eligible applicants within enterprise tier one, two, and three areas as defined in G.S. 105-129.3. The remaining fifty percent (50%) of the funds shall be used to fund reimbursement requests from eligible applicants in enterprise tier four and five areas as defined in G.S. 105-129.3.

(2) Among the eligible counties and cities in enterprise tier one, two, and three areas, reimbursement shall be made to each eligible county or city in proportion to the number of dogs and cats that have received rabies vaccinations during the

preceding fiscal year in that county or city as compared to the number of dogs and cats that have received rabies vaccinations during the preceding fiscal year by all of the eligible applicants in enterprise tier one, two, or three areas.

(3) Among the eligible counties and cities in enterprise tier four and five areas, reimbursement shall be made to each eligible county or city in proportion to the number of dogs and cats that have received rabies vaccinations during the preceding fiscal year in that county or city as compared to the number of dogs and cats that have received rabies vaccinations during the preceding fiscal year by all of the eligible applicants in enterprise tier four and five areas.

(4) Should funds remain available from the fifty percent (50%) of the Spay/Neuter Account designated for enterprise tier one, two, or three areas after reimbursement of all claims by eligible applicants in those areas, the remaining funds shall be made available to reimburse eligible applicants in enterprise tier four and five areas."

Section 2. G.S. 130A-190 reads as rewritten:

"§ *130A-190. Rabies vaccination tags.*

(a) A licensed veterinarian or a certified rabies vaccinator who administers rabies vaccine to a dog or cat shall issue a rabies vaccination tag to the owner of the animal. The rabies vaccination tag shall show the year issued, a vaccination number, the words "North Carolina" or the initials "N.C." and the words "rabies vaccine." Dogs and cats shall wear rabies vaccination tags at all times. However, cats may be exempted from wearing the tags by local ordinance. ~~Rabies~~

(b) Rabies vaccination tags, links and rivets may be obtained from the Department. The Secretary is authorized to establish by rule a fee for the rabies tags, links and rivets. Except as otherwise authorized in this section, the fee shall not exceed the actual cost of the rabies tags, links and rivets, plus transportation costs. The Secretary may increase the fee beyond the actual cost plus transportation, by an amount not to exceed five cents ($.05) per tag, to fund rabies education and prevention programs.

(c) The Department shall make available a special edition rabies tag to be known as the "I Care" tag. This tag shall be different in shape from the standard tag and shall carry the inscription "I Care" in addition to the information required by subsection (a) of this section. The Secretary is authorized to establish a fee for the "I Care" rabies tag equal to the amount set forth in subsection (b) of this section plus an additional fifty cents ($.50). The additional fifty cents ($.50) shall be credited to the Spay/Neuter Account established in G.S. 19A-52."

Section 3. G.S. 20-81.12(b10) reads as rewritten:

"(b10) Animal Lovers Plates. -- The Division must receive 300 or more applications before an animal lovers plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the animal lovers plate to the ~~Department of Health and Human Services to create~~

~~a statewide program to promote spaying and neutering of dogs and cats.~~ Spay/Neuter Account established in G.S. 19A-50."

Section 4. G.S. 130A-197 reads as rewritten:

"*§ 130A-197. Infected dogs and cats to be destroyed; protection of vaccinated dogs and cats.*

~~A~~ When the local health director reasonably suspects that a dog or cat ~~bitten by~~ has been exposed to the saliva or nervous tissue of a proven rabid animal or animal reasonably suspected of having rabies that is not available for laboratory ~~diagnosis~~ diagnosis, the dog or cat shall be considered to have been exposed to rabies. A dog or cat exposed to rabies shall be destroyed immediately by its owner, the county Animal Control Officer or a peace officer unless the dog or cat has been vaccinated against rabies in accordance with this Part and the rules of the Commission more than three weeks prior to being ~~bitten,~~ exposed, and is given a booster dose of rabies vaccine within three days of the ~~bite.~~ exposure. As an alternative to destruction, the dog or cat may be quarantined at a facility approved by the local health director for a period up to six months, and under reasonable conditions imposed by the local health director."

Section 5. Every county or city animal shelter, or animal shelter operated under contract with a county or city or otherwise in receipt of State or local funding shall prepare an annual report setting forth the numbers, by species, of animals received into the shelter, the number adopted out, the number returned to owner, and the number destroyed. The report shall also contain the total operating expenses of the shelter and the cost per animal handled. The report shall be filed with the Department of Health and Human Services by August 1 of each year.

Section 6. The Department of Health and Human Services shall establish a pilot program for animal control in one of the counties within the enterprise tier one area, as defined in G.S. 105-29.3, that does not have an existing animal control program and that meets the qualifications established in this section.

The Department shall select a county to participate from among those counties applying to the Department for consideration for the pilot program. Counties wishing to participate should submit a written application to the Department describing in detail the animal control problems in the county, the proposed animal control program to be implemented with the funding available through the pilot program, and the expected results from the program. The Department shall make its selection based on its determination of where the pilot program would most effectively reduce the population of unwanted cats and dogs and enhance public health and safety. The decision of the Department as to the county chosen to participate in the pilot program shall be final.

To qualify to participate in the program, in a county where a tax exists, the county shall establish a differentiated tax on dogs and cats and offer a reduced cost spay/neuter program to low-income persons as provided in G.S. 19A-53(a). The county selected shall be required

to provide a fifty percent (50%) match to any State funds that are allocated for the local animal control program. The county shall keep records of the number of cats and dogs spayed and neutered under the reduced cost spay/neuter program and shall report the results of the pilot program on animal control problems in the county to the Department on a semiannual basis.

Funding for the program shall be from the Spay/Neuter Account established pursuant to G.S. 19A-52 from funds received from the sale of Animal Lovers special license plates pursuant to G.S. 20-79.7 and shall not exceed fifty percent (50%) of the funds available from the sale of the special license plate or fifty thousand dollars ($50,000), whichever is less.

Section 7. This act becomes effective January 1, 2001.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 9:51 a.m. on the 2nd day of August, 2000.

S.B. 1152 **SESSION LAW 2000-164**

AN ACT AUTHORIZING CITIES TO DEMOLISH AND REMOVE CERTAIN NONRESIDENTIAL BUILDINGS AND STRUCTURES TO ENHANCE ECONOMIC DEVELOPMENT EFFORTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-426 reads as rewritten:

"§ *160A-426. Unsafe buildings condemned.*

(a) Residential Building. -- Every building which shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of said building.

(b) Nonresidential Building or Structure. -- An inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets both of the following conditions:

(1) It appears to the inspector to be vacant or abandoned.

(2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

If an inspector declares a nonresidential building or structure to be unsafe, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this subsection, the term 'community development

target area' means an area that has characteristics of a development zone under G.S. 105-129.3A, a 'nonresidential development area' under G.S. 160A-503(10), or an area with similar characteristics designated by the city council as being in special need of revitalization for the benefit and welfare of its citizens."

Section 2. G.S. 160A-428 reads as rewritten:

"*§ 160A-428. Action in event of failure to take corrective action.*

If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. 160A-426 shall fail to take prompt corrective action, the local inspector shall give him written notice, by certified or registered mail to his last known address or by personal service,

(1) That the building or structure is in a condition that appears to ~~constitute a fire or safety hazard or to be dangerous to life, health, or other property;~~ meet one or more of the following conditions:
   a. Constitutes a fire or safety hazard.
   b. Is dangerous to life, health, or other property.
   c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
   d. Has a tendency to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

(2) That a hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the city at least once not later than one week prior to the hearing."

Section 3. G.S. 160A-432 reads as rewritten:

"*§ 160A-432. ~~Equitable enforcement.~~ Civil and equitable enforcement.*

(a) Civil Enforcement. -- Whenever any violation is denominated a misdemeanor under the provisions of this Part, the city, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(b) Equitable Enforcement. -- In the case of a nonresidential building or structure declared unsafe under G.S. 160A-426(b), a city may, in lieu of taking action under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the city in connection with the removal or demolition shall be a lien

against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of this Chapter. If the building or structure is removed or demolished by the city, the city shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The city shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(c) Nothing in this section shall be construed to impair or limit the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise."

Section 4. G.S. 160A-430 reads as rewritten:

"*§ 160A-430. Appeal; finality of order if not appealed.*

Any owner who has received an order under G.S. 160A-429 may appeal from the order to the city council by giving notice of appeal in writing to the inspector and to the city clerk within 10 days following issuance of the order. In the absence of an appeal, the order of the inspector shall be final. The city council shall hear and render a decision in an appeal within a reasonable ~~time and~~ time. The city council may affirm, modify and affirm, or revoke the order."

Section 5. Section 4 of this act becomes effective July 1, 2000, and applies to appeals filed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 9:52 a.m. on the 2nd day of August, 2000.

H.B. 1498 **SESSION LAW 2000-165**

AN ACT TO AUTHORIZE THE TOWN MANAGER OF BUTNER TO ADMINISTER ITS ANNUAL POWELL BILL STATE STREET AID ALLOCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-41.1(c) reads as rewritten:

"(c) Notwithstanding the provisions of subsections (a) and (b) of this section and of G.S. 136-41.2, the unincorporated area known as Butner qualifies in all respects for allocation of funds under this section and certification of the population and street mileage of Butner by the North Carolina Department of Health and Human Services is acceptable. Funds allocated to the area for this purpose shall be administered by the ~~member of the State Board of Transportation administering the Highway Fund in Granville County.~~ Butner Town Manager."

Section 1.1. Section 169.1 of Chapter 321 of the 1993 Session Laws reads as rewritten:

"Sec. 169.1. Notwithstanding any other provision of law, the Department of Transportation shall maintain the streets and highways on the State highway system within municipalities that are not eligible for funds under G.S. 136-41.2. The Department of Transportation shall maintain the streets and highways as part of the State secondary system, and maintain the paving priority for the secondary roads the same as if the municipality were not incorporated, as long as the ineligibility for funds under G.S. 136-41.2 continues. The provisions of this section apply only to municipalities incorporated between July 1, 1989, and June 30, ~~1993.~~ 1993 or between June 1, 1978 and June 30, 1978."

Section 2. This act becomes effective July 1, 2000, and applies to allocations authorized under G.S. 136-41.1 that occur on or after the effective date.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law upon approval of the Governor at 9:53 a.m. on the 2nd day of August, 2000.

H.B. 1502 **SESSION LAW 2000-166**

AN ACT TO AUTHORIZE LOCAL COURT OFFICIALS TO RESPOND TO ADVERSE WEATHER AND OTHER EMERGENCY SITUATIONS BY CANCELING COURT SESSIONS AND CLOSING COURT OFFICES AND TO AUTHORIZE THE CHIEF JUSTICE TO EXTEND STATUTES OF LIMITATIONS AND OTHER COMPARABLE DEADLINES IN RESPONSE TO CATASTROPHIC CONDITIONS, AS RECOMMENDED BY THE NORTH CAROLINA COURTS COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 7A of the General Statutes is amended by adding a new section to read:

"*§ 7A-39. Adverse weather cancellation of court sessions and closing court offices; extension of statutes of limitations in catastrophic conditions.*

(a) Cancellation of Court Sessions, Closing Court Offices. -- In response to adverse weather or other comparable emergency situations, any session of any court of the General Court of Justice may be cancelled, postponed, or altered by judicial officials, and court offices may be closed by judicial branch hiring authorities, pursuant to uniform statewide guidelines prescribed by the Director of the Administrative Office of the Courts.

(b) Authority of Chief Justice to Extend Statutes of Limitations. -- When the Chief Justice of the North Carolina Supreme Court

determines and declares that catastrophic conditions exist or have existed in one or more counties of the State, the Chief Justice may by order entered pursuant to this subsection extend, to a date certain no fewer than 10 days after the effective date of the order, the time within which pleadings, motions, notices, and other documents and papers may be timely filed and other acts may be timely done in civil actions, criminal actions, estates, and special proceedings in each county named in the order.

(1) Catastrophic conditions defined. -- As used in this subsection, 'catastrophic conditions' means any set of circumstances that make it impossible or extremely hazardous for judicial officials, employees, parties, witnesses, or other persons with business before the courts to reach a courthouse, or that create a significant risk of physical harm to persons in a courthouse, or that would otherwise convince a reasonable person to avoid travelling to or being in the courthouse, including conditions that may result from hurricane, tornado, flood, snowstorm, ice storm, other severe natural disaster, fire, or riot.

(2) Entry of order. -- The Chief Justice may enter an order under this subsection at any time after catastrophic conditions have ceased to exist. The order shall be in writing and shall become effective for each affected county upon being filed in the office of the clerk of superior court of that county.

(c) In Chambers Jurisdiction Not Affected. -- Nothing in this section prohibits a judge or other judicial officer from exercising, during adverse weather or other emergency situations, any in chambers or ex parte jurisdiction conferred by law upon that judge or judicial officer, as provided by law. The effectiveness of any such exercise shall not be affected by a determination by the Chief Justice that catastrophic conditions existed at the time it was exercised."

Section 2. This act is effective when it becomes law and applies to court closings occurring on or after the date of effectiveness.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law upon approval of the Governor at 9:54 a.m. on the 2nd day of August, 2000.

S.B. 1529 **SESSION LAW 2000-167**

AN ACT TO ADJUST AND ADD FEES CHARGED BY THE REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 161-10(a) reads as rewritten:

"(a) Except as provided in G.S. 161-11.1 or 161-11.2, all fees collected under this section shall be deposited into the county general fund. ~~In the performance of his duties,~~ While performing the duties

of the office, the register of deeds shall collect the following fees which shall be uniform throughout the State:

. . .

(8a) Vital Records Network. -- For obtaining access to the Vital Records Computer Network, two dollars ($2.00).

. . .

(19) Miscellaneous Services. -- For performing miscellaneous services such as faxing documents, providing laminated copies of documents, expedited delivery of documents, and similar services, the cost of the service."

Section 2. This act becomes effective October 1, 2000.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law upon approval of the Governor at 9:55 a.m. on the 2nd day of August, 2000.

H.B. 1853 **SESSION LAW 2000-168**

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA AND TO AMEND THE LAWS REGARDING CERTAIN REVENUE BONDS THAT MAY BE ISSUED BY THE BOARD OF GOVERNORS.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is (i) to authorize the construction by The University of North Carolina, of the capital improvements projects listed in the act for the respective institutions, and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, or other funds, or any combination of these funds, but not including funds appropriated from the General Fund of the State.

Section 2. The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Section 1 of this act, are as follows:

1. **Appalachian State University**	
New Dining Hall - Supplement	$ 9,569,744
Steam Distribution/Return System-Reconstruction	$ 3,109,200
2. **East Carolina University**	
Diabetes Building - Planning	$ 500,000
West End Dining Hall - Supplement	$ 5,089,700
3. **North Carolina School of the Arts**	
Technology Infrastructure - Residence	

Halls	$ 1,000,000
4. North Carolina State University	
Expansion of Parking Facilities	$ 9,000,000
Centennial Campus Infrastructure	$18,780,000
Centennial Campus Tenant Upfits	$ 6,750,000
5. The University of North Carolina at Asheville	
New Residence Hall - Supplement	$ 3,720,800
6. The University of North Carolina at Chapel Hill	
Sonja H. Stone Black Cultural Center	$ 9,000,000
7. The University of North Carolina at Charlotte	
Alumni Center	$ 3,300,000
8. The University of North Carolina at Greensboro	
Parking Deck	$11,000,000
9. The University of North Carolina at Pembroke	
Dining Hall Addition	$ 750,000.

Section 3. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

Section 4. G.S. 116-189(4) reads as rewritten:

"(4) The word 'institution' shall mean each of the institutions enumerated in G.S. 116-2, ~~and~~ the University of North Carolina ~~Hospitals at Chapel Hill~~ Health Care System, and the University of North Carolina General Administration."

Section 5. G.S. 116-189(5) is amended as follows:

"(5) ~~The word "project" shall mean and shall include any one or more buildings or facilities for (i) the housing, health, welfare, recreation and convenience of students, (ii) the housing of faculty, (iii) adult or continuing education, (iv) revenue-producing parking decks or structures, and (v) education, research, patient care and community services at the University of North Carolina Hospitals at Chapel Hill, of any size or type approved by the Board and the Director of the Budget and any enlargements, improvements or additions so approved of or to any such buildings or facilities now or hereafter existing, including, but without limiting the generality thereof, dormitories and other student, faculty and adult or continuing education housing,~~

~~dining facilities, student centers, gymnasiums, field houses and other physical education and recreation buildings, structures and facilities, infirmaries and other health care buildings, structures and facilities, academic facilities for adult or continuing education, and necessary land and interests in land, furnishings, equipment and parking facilities. Any project comprising a building or buildings for student activities or adult or continuing education or any enlargement or improvement thereof or addition thereto may include, without limiting the generality thereof, facilities for services such as lounges, restrooms, lockers, offices, stores for books and supplies, snack bars, cafeterias, restaurants, laundries, cleaning, postal, banking and similar services, offices, rooms and other facilities for guests and visitors and facilities for meetings and for recreational, cultural and entertainment activities.~~ The word 'project' shall mean and shall include any one or more buildings, structures, or facilities of any size or type now or hereafter existing for (i) the housing, health, welfare, recreation, and convenience of students, (ii) the housing of faculty, (iii) academic, research, patient care, and community services, and (iv) parking at an institution or institutions, that has been approved by the Board and the Director of the Budget and any improvements or additions so approved to any such buildings, structures, or facilities, including, but without limiting the generality thereof, dormitories and other student, faculty, and adult or continuing education housing, dining facilities, student centers, gymnasiums, field houses and other physical education and recreation buildings, infirmaries and other health care buildings, academic facilities, furnishings, equipment, parking facilities, and necessary land and interest in land. Any project may include, without limiting the generality thereof, facilities for services such as lounges, restrooms, lockers, offices, stores for books and supplies, snack bars, cafeterias, restaurants, laundries, cleaning, postal, banking and similar services, rooms and other facilities for guests and visitors, and facilities for meetings and for recreational, cultural, and entertainment activities."

Section 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law upon approval of the Governor at 9:55 a.m. on the 2nd day of August, 2000.

S.B. 1305 **SESSION LAW 2000-169**

AN ACT TO ENACT REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE, CONFORMING AMENDMENTS TO OTHER ARTICLES OF THE UNIFORM COMMERCIAL CODE, AND CONFORMING AMENDMENTS TO OTHER SECTIONS OF THE GENERAL STATUTES AND TO INCREASE CERTAIN FEES UNDER CURRENT ARTICLE 9, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

PART I. REVISE ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE.

Section 1. Article 9 of Chapter 25 of the General Statutes is rewritten to read:

"ARTICLE 9.
"Secured Transactions.
"PART 1.
"GENERAL PROVISIONS.
"SUBPART 1. SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS.

"§ 25-9-101. *Short title.*

This Article may be cited as Uniform Commercial Code-Secured Transactions.

"§ 25-9-102. *Definitions and index of definitions.*

(a) Article 9 definitions. -- In this Article:

(1) 'Accession' means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) 'Account', except as used in 'account for', means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or

funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) 'Account debtor' means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) 'Accounting', except as used in 'accounting for', means a record:

a. Authenticated by a secured party;

b. Indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

c. Identifying the components of the obligations in reasonable detail.

(5) 'Agricultural lien' means an interest, other than a security interest, in farm products:

a. Which secures payment or performance of an obligation for:

1. Goods or services furnished in connection with a debtor's farming operation; or

2. Rent on real property leased by a debtor in connection with its farming operation;

b. Which is created by statute in favor of a person that:

1. In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

2. Leased real property to a debtor in connection with the debtor's farming operation; and

c. Whose effectiveness does not depend on the person's possession of the personal property.

(6) 'As-extracted collateral' means:

a. Oil, gas, or other minerals that are subject to a security interest that:

1. Is created by a debtor having an interest in the minerals before extraction; and

2. Attaches to the minerals as extracted; or

b. Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) 'Authenticate' means:

a. To sign; or

b. To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(8) 'Bank' means an organization that is engaged in the business of banking. The term includes savings banks,

savings and loan associations, credit unions, and trust companies.

(9) 'Cash proceeds' means proceeds that are money, checks, deposit accounts, or the like.

(10) 'Certificate of title' means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) 'Chattel paper' means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this subdivision, 'monetary obligation' means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) 'Collateral' means the property subject to a security interest or agricultural lien. The term includes:

a. Proceeds to which a security interest attaches;

b. Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

c. Goods that are the subject of a consignment.

(13) 'Commercial tort claim' means a claim arising in tort with respect to which:

a. The claimant is an organization; or

b. The claimant is an individual and the claim:

1. Arose in the course of the claimant's business or profession; and

2. Does not include damages arising out of personal injury to or the death of an individual.

(14) 'Commodity account' means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) 'Commodity contract' means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

a. Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

b. Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) 'Commodity customer' means a person for which a commodity intermediary carries a commodity contract on its books.

(17) 'Commodity intermediary' means a person that:

a. Is registered as a futures commission merchant under federal commodities law; or

b. In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) 'Communicate' means:

a. To send a written or other tangible record;

b. To transmit a record by any means agreed upon by the persons sending and receiving the record; or

c. In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(19) 'Consignee' means a merchant to which goods are delivered in a consignment.

(20) 'Consignment' means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

a. The merchant:

1. Deals in goods of that kind under a name other than the name of the person making delivery;

2. Is not an auctioneer; and

3. Is not generally known by its creditors to be substantially engaged in selling the goods of others;

b. With respect to each delivery, the aggregate value of the goods is one thousand dollars ($1,000) or more at the time of delivery;

c. The goods are not consumer goods immediately before delivery; and

d. The transaction does not create a security interest that secures an obligation.

(21) 'Consignor' means a person that delivers goods to a consignee in a consignment.

(22) 'Consumer debtor' means a debtor in a consumer transaction.

(23) 'Consumer goods' means goods that are used or bought for use primarily for personal, family, or household purposes.

(24) 'Consumer-goods transaction' means a consumer transaction in which:

a. An individual incurs an obligation primarily for personal, family, or household purposes; and
b. A security interest in consumer goods secures the obligation.

(25) 'Consumer obligor' means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(26) 'Consumer transaction' means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(27) 'Continuation statement' means an amendment of a financing statement which:
a. Identifies, by its file number, the initial financing statement to which it relates; and
b. Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28) 'Debtor' means:
a. A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;
b. A seller of accounts, chattel paper, payment intangibles, or promissory notes; or
c. A consignee.

(29) 'Deposit account' means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(30) 'Document' means a document of title or a receipt of the type described in G.S. 25-7-201(2).

(31) 'Electronic chattel paper' means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) 'Encumbrance' means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) 'Equipment' means goods other than inventory, farm products, or consumer goods.

(34) 'Farm products' means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:
a. Crops grown, growing, or to be grown, including:
1. Crops produced on trees, vines, and bushes; and
2. Aquatic goods produced in aquacultural operations;

b. Livestock, born or unborn, including aquatic goods produced in aquacultural operations;
c. Supplies used or produced in a farming operation; or
d. Products of crops or livestock in their unmanufactured states.

(35) 'Farming operation' means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) 'File number' means the number assigned to an initial financing statement pursuant to G.S. 25-9-519(a).

(37) 'Filing office' means an office designated in G.S. 25-9-501 as the place to file a financing statement.

(38) 'Filing-office rule' means a rule adopted pursuant to G.S. 25-9-526.

(39) 'Financing statement' means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) 'Fixture filing' means the filing of a financing statement covering goods that are or are to become fixtures and satisfying G.S. 25-9-502(a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) 'Fixtures' means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) 'General intangible' means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(43) 'Good faith' means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(44) 'Goods' means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of

the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(45) 'Governmental unit' means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) 'Health-care-insurance receivable' means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(47) 'Instrument' means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) 'Inventory' means goods, other than farm products, which:

a. Are leased by a person as lessor;

b. Are held by a person for sale or lease or to be furnished under a contract of service;

c. Are furnished by a person under a contract of service; or

d. Consist of raw materials, work in process, or materials used or consumed in a business.

(49) 'Investment property' means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) 'Jurisdiction of organization', with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(51) 'Letter-of-credit right' means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) 'Lien creditor' means:

a. A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

b. An assignee for benefit of creditors from the time of assignment;

c. A trustee in bankruptcy from the date of the filing of the petition; or

d. A receiver in equity from the time of appointment.

(53) 'Manufactured home' means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subdivision except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(54) 'Manufactured-home transaction' means a secured transaction:

a. That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

b. In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) 'Mortgage' means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) 'New debtor' means a person that becomes bound as debtor under G.S. 25-9-203(d) by a security agreement previously entered into by another person.

(57) 'New value' means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) 'Noncash proceeds' means proceeds other than cash proceeds.

(59) 'Obligor' means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation.

The term does not include issuers or nominated persons under a letter of credit.

(60) 'Original debtor', except as used in G.S. 25-9-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under G.S. 25-9-203(d).

(61) 'Payment intangible' means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) 'Person related to', with respect to an individual, means:
a. The spouse of the individual;
b. A brother, brother-in-law, sister, or sister-in-law of the individual;
c. An ancestor or lineal descendant of the individual or the individual's spouse; or
d. Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(63) 'Person related to', with respect to an organization, means:
a. A person directly or indirectly controlling, controlled by, or under common control with the organization;
b. An officer or director of, or a person performing similar functions with respect to, the organization;
c. An officer or director of, or a person performing similar functions with respect to, a person described in sub-subdivision a. of this subdivision;
d. The spouse of an individual described in sub-subdivision a., b., or c. of this subdivision; or
e. An individual who is related by blood or marriage to an individual described in sub-subdivision a., b., c., or d. of this subdivision and shares the same home with the individual.

(64) 'Proceeds', except as used in G.S. 25-9-609(b), means the following property:
a. Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;
b. Whatever is collected on, or distributed on account of, collateral;
c. Rights arising out of collateral;
d. To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or
e. To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) 'Production-money crops' means crops that secure a production-money obligation incurred with respect to the production of those crops.

(66) 'Production-money obligation' means an obligation of an obligor incurred for new value given to enable the debtor to produce crops if the value is in fact used for the production of the crops.

(67) 'Production of crops' includes tilling and otherwise preparing land for growing, planting, cultivating, fertilizing, irrigating, harvesting, gathering, and curing crops, and protecting them from damage or disease.

(68) 'Promissory note' means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(69) 'Proposal' means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to G.S. 25-9-620, 25-9-621, and 25-9-622.

(70) 'Public-finance transaction' means a secured transaction in connection with which:

a. Debt securities are issued;

b. All or a portion of the securities issued have an initial stated maturity of at least 20 years; and

c. The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(71) 'Pursuant to commitment', with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(72) 'Record', except as used in 'for record', 'of record', 'record or legal title', and 'record owner', means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(73) 'Registered organization' means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(74) 'Secondary obligor' means an obligor to the extent that:

a. The obligor's obligation is secondary; or

b. The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(75) 'Secured party' means:

a. A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

b. A person that holds an agricultural lien;

c. A consignor;

d. A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

e. A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

f. A person that holds a security interest arising under G.S. 25-2-401, 25-2-505, 25-2-711(3), 25-2A-508(5), 25-4-208, or 25-5-118.

(76) 'Security agreement' means an agreement that creates or provides for a security interest.

(77) 'Send', in connection with a record or notification, means:

a. To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

b. To cause the record or notification to be received within the time that it would have been received if properly sent under sub-subdivision a. of this subdivision.

(78) 'Software' means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(79) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(80) 'Supporting obligation' means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(81) 'Tangible chattel paper' means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(82) 'Termination statement' means an amendment of a financing statement which:

a. Identifies, by its file number, the initial financing statement to which it relates; and

b. Indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(83) 'Transmitting utility' means a person primarily engaged in the business of:

a. Operating a railroad, subway, street railway, or trolley bus;

b. Transmitting communications electrically, electromagnetically, or by light;

c. Transmitting goods by pipeline or sewer; or

d. Transmitting or producing and transmitting electricity, steam, gas, or water.

(b) Definitions in other articles. -- The following definitions in other Articles of this Chapter apply to this Article:

'Applicant'	G.S. 25-5-102.
'Beneficiary'	G.S. 25-5-102.
'Broker'	G.S. 25-8-102.
'Certificated security'	G.S. 25-8-102.
'Check'	G.S. 25-3-104.
'Clearing corporation'	G.S. 25-8-102.
'Contract for sale'	G.S. 25-2-106.
'Customer'	G.S. 25-4-104.
'Entitlement holder'	G.S. 25-8-102.
'Financial asset'	G.S. 25-8-102.
'Holder in due course'	G.S. 25-3-302.
'Issuer' (with respect to a letter of credit or letter-of-credit right)	G.S. 25-5-102.
'Issuer' (with respect to a security)	G.S. 25-8-201.
'Lease'	G.S. 25-2A-103.
'Lease agreement'	G.S. 25-2A-103.
'Lease contract'	G.S. 25-2A-103.
'Leasehold interest'	G.S. 25-2A-103.
'Lessee'	G.S. 25-2A-103.
'Lessee in ordinary course of business'	G.S. 25-2A-103.
'Lessor'	G.S. 25-2A-103.
'Lessor's residual interest'	G.S. 25-2A-103.
'Letter of credit'	G.S. 25-5-102.
'Merchant'	G.S. 25-2-104.
'Negotiable instrument'	G.S. 25-3-104.
'Nominated person'	G.S. 25-5-102.
'Note'	G.S. 25-3-104.
'Proceeds of a letter of credit'	G.S. 25-5-114.
'Prove'	G.S. 25-3-103.
'Sale'	G.S. 25-2-106.
'Securities account'	G.S. 25-8-501.
'Securities intermediary'	G.S. 25-8-102.
'Security'	G.S. 25-8-102.

'Security certificate'	G.S. 25-8-102.
'Security entitlement'	G.S. 25-8-102.
'Uncertificated security'	G.S. 25-8-102.

(c) Article 1 definitions and principles. -- Article 1 of this Chapter contains general definitions and principles of construction and interpretation applicable throughout this Article.

"*§ 25-9-103. Purchase-money security interest; application of payments; burden of establishing.*

(a) Definitions. -- In this section:

(1) 'Purchase-money collateral' means goods or software that secures a purchase-money obligation incurred with respect to that collateral; and

(2) 'Purchase-money obligation' means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

(b) Purchase-money security interest in goods. -- A security interest in goods is a purchase-money security interest:

(1) To the extent that the goods are purchase-money collateral with respect to that security interest;

(2) If the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

(3) Also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

(c) Purchase-money security interest in software. -- A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(1) The debtor acquired its interest in the software in an integrated transaction in which it acquired an interest in the goods; and

(2) The debtor acquired its interest in the software for the principal purpose of using the software in the goods.

(d) Consignor's inventory purchase-money security interest. -- The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(e) Application of payment in non-consumer-goods transaction. -- In a transaction other than a consumer-goods transaction, if the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(1) In accordance with any reasonable method of application to which the parties agree;

(2) In the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(3) In the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

a. To obligations that are not secured; and

b. If more than one obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(f) No loss of status of purchase-money security interest in non-consumer-goods transaction. -- In a transaction other than a consumer-goods transaction, a purchase-money security interest does not lose its status as such, even if:

(1) The purchase-money collateral also secures an obligation that is not a purchase-money obligation;

(2) Collateral that is not purchase-money collateral also secures the purchase-money obligation; or

(3) The purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

(g) Burden of proof in non-consumer-goods transaction. -- In a transaction other than a consumer-goods transaction, a secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

(h) Non-consumer-goods transactions; no inference. -- The limitation of the rules in subsections (e), (f), and (g) of this section to transactions other than consumer-goods transactions is intended to leave to the court the determination of the proper rules in consumer-goods transactions. The court may not infer from that limitation the nature of the proper rule in consumer-goods transactions and may continue to apply established approaches.

"§ 25-9-103.1. Production-money crops; production-money obligation; production-money security interest; burden of establishing.

(a) Production-money crops. -- A security interest in crops is a production-money security interest to the extent that the crops are production-money crops.

(b) Production-money obligation. -- If the extent to which a security interest is a production-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(1) In accordance with any reasonable method of application to which the parties agree;

(2) In the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(3) In the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

a. To obligations that are not secured; and
b. If more than one obligation is secured, to obligations secured by production-money security interests in the order in which those obligations were incurred.

(c) Production-money security interest. -- A production-money security interest does not lose its status as such, even if:

(1) The production-money crops also secure an obligation that is not a production-money obligation;
(2) Collateral that is not production-money crops also secures the production-money obligation; or
(3) The production-money obligation has been renewed, refinanced, or restructured.

(d) Burden of proof. -- A secured party claiming a production-money security interest has the burden of establishing the extent to which the security interest is a production-money security interest.

"§ *25-9-104. Control of deposit account.*

(a) Requirements for control. -- A secured party has control of a deposit account if:

(1) The secured party is the bank with which the deposit account is maintained;
(2) The debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; or
(3) The secured party becomes the bank's customer with respect to the deposit account.

(b) Debtor's right to direct disposition. -- A secured party that has satisfied subsection (a) of this section has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

"§ *25-9-105. Control of electronic chattel paper.*

A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in subdivisions (4), (5), and (6) of this section, unalterable;
(2) The authoritative copy identifies the secured party as the assignee of the record or records;
(3) The authoritative copy is communicated to and maintained by the secured party or its designated custodian;
(4) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the participation of the secured party;
(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

"§ 25-9-106. *Control of investment property.*

(a) Control under G.S. 25-8-106. -- A person has control of a certificated security, uncertificated security, or security entitlement as provided in G.S. 25-8-106.

(b) Control of commodity contract. -- A secured party has control of a commodity contract if:

(1) The secured party is the commodity intermediary with which the commodity contract is carried; or

(2) The commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.

(c) Effect of control of securities account or commodity account. -- A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

"§ 25-9-107. *Control of letter-of-credit right.*

A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under G.S. 25-5-114(c) or otherwise applicable law or practice.

"§ 25-9-108. *Sufficiency of description.*

(a) Sufficiency of description. -- Except as otherwise provided in subsections (c), (d), and (e) of this section, a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described.

(b) Examples of reasonable identification. -- Except as otherwise provided in subsection (d) of this section, a description of collateral reasonably identifies the collateral if it identifies the collateral by:

(1) Specific listing;

(2) Category;

(3) Except as otherwise provided in subsection (e) of this section, a type of collateral defined in this Chapter;

(4) Quantity;

(5) Computational or allocational formula or procedure; or

(6) Except as otherwise provided in subsection (c) of this section, any other method, if the identity of the collateral is objectively determinable.

(c) Supergeneric description not sufficient. -- A description of collateral as 'all the debtor's assets' or 'all the debtor's personal property' or using words of similar import does not reasonably identify the collateral.

(d) Investment property. -- Except as otherwise provided in subsection (e) of this section, a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

(1) The collateral by those terms or as investment property; or
(2) The underlying financial asset or commodity contract.

(e) When description by type insufficient. -- A description only by type of collateral defined in this Chapter is an insufficient description of:

(1) A commercial tort claim; or
(2) In a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

"SUBPART 2. APPLICABILITY OF ARTICLE.

"*§ 25-9-109. Scope.*

(a) General scope of Article. -- Except as otherwise provided in subsections (c) and (d) of this section, this Article applies to:

(1) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;
(2) An agricultural lien;
(3) A sale of accounts, chattel paper, payment intangibles, or promissory notes;
(4) A consignment;
(5) A security interest arising under G.S. 25-2-401, 25-2-505, 25-2-711(3), or 25-2A-508(5), as provided in G.S. 25-9-110; and
(6) A security interest arising under G.S. 25-4-208 or G.S. 25-5-118.

(b) Security interest in secured obligation. -- The application of this Article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this Article does not apply.

(c) Extent to which Article does not apply. -- This Article does not apply to the extent that:

(1) A statute, regulation, or treaty of the United States preempts this Article;
(2) Another statute of this State expressly governs the creation, perfection, priority, or enforcement of a security interest created by this State or a governmental unit of this State;
(3) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or
(4) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under G.S. 25-5-114.

(d) Inapplicability of Article. -- This Article does not apply to:

(1) A landlord's lien, other than an agricultural lien;
(2) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but G.S. 25-9-333 applies with respect to priority of the lien;

(3) An assignment of a claim for wages, salary, or other compensation of an employee;

(4) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

(5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;

(6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(8) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but G.S. 25-9-315 and G.S. 25-9-322 apply with respect to proceeds and priorities in proceeds;

(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(10) A right of recoupment or setoff, but:

a. G.S. 25-9-340 applies with respect to the effectiveness of rights of recoupment or setoff against deposit accounts; and

b. G.S. 25-9-404 applies with respect to defenses or claims of an account debtor;

(11) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

a. Liens on real property in G.S. 25-9-203 and G.S. 25-9-308;

b. Fixtures in G.S. 25-9-334;

c. Fixture filings in G.S. 25-9-501, 25-9-502, 25-9-512, 25-9-516, and 25-9-519; and

d. Security agreements covering personal and real property in G.S. 25-9-604;

(12) An assignment of a claim arising in tort, other than a commercial tort claim, but G.S. 25-9-315 and G.S. 25-9-322 apply with respect to proceeds and priorities in proceeds; or

(13) An assignment of a deposit account in a consumer transaction, but G.S. 25-9-315 and G.S. 25-9-322 apply with respect to proceeds and priorities in proceeds.

"§ 25-9-110. Security interests arising under Article 2 or 2A of this Chapter.

A security interest arising under G.S. 25-2-401, 25-2-505, 25-2-711(3), or 25-2A-508(5) is subject to this Article. However, until the debtor obtains possession of the goods:

(1) The security interest is enforceable, even if G.S. 25-9-203(b)(3) has not been satisfied;

(2) Filing is not required to perfect the security interest;

(3) The rights of the secured party after default by the debtor are governed by Article 2 or 2A of this Chapter; and

(4) The security interest has priority over a conflicting security interest created by the debtor.

"PART 2.

"EFFECTIVENESS OF SECURITY AGREEMENT; ATTACHMENT OF SECURITY INTEREST; RIGHTS OF PARTIES TO SECURITY AGREEMENT.

"SUBPART 1. EFFECTIVENESS AND ATTACHMENT.

"§ *25-9-201. General effectiveness of security agreement.*

(a) General effectiveness. -- Except as otherwise provided in this Chapter, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(b) Applicable consumer laws and other law. -- A transaction subject to this Article is subject to any applicable rule of law which establishes a different rule for consumers, to any other statute, rule, or regulation of this State that regulates the rates, charges, agreements, and practices for loans, credit sales, or other extensions of credit, and to any consumer-protection statute, rule, or regulation of this State, including Chapter 24 of the General Statutes, the Retail Installment Sales Act (Chapter 25A of the General Statutes), the North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes), and the Pawnbrokers Modernization Act of 1989 (Chapter 91A of the General Statutes).

(c) Other applicable law controls. -- In case of conflict between this Article and a rule of law, statute, or regulation described in subsection (b) of this section, the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (b) of this section has only the effect the statute or regulation specifies.

(d) Further deference to other applicable law. -- This Article does not:

(1) Validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (b) of this section; or

(2) Extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

"§ *25-9-202. Title to collateral immaterial.*

Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this Article with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

"§ 25-9-203. Attachment and enforceability of security interest; proceeds; supporting obligations; formal requisites.

(a) Attachment. -- A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(b) Enforceability. -- Except as otherwise provided in subsections (c) through (i) of this section, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(1) Value has been given;

(2) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(3) One of the following conditions is met:

a. The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

b. The collateral is not a certificated security and is in the possession of the secured party under G.S. 25-9-313 pursuant to the debtor's security agreement;

c. The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under G.S. 25-8-301 pursuant to the debtor's security agreement; or

d. The collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under G.S. 25-9-104, 25-9-105, 25-9-106, or 25-9-107 pursuant to the debtor's security agreement.

(c) Other UCC provisions. -- Subsection (b) of this section is subject to G.S. 25-4-208 on the security interest of a collecting bank, G.S. 25-5-118 on the security interest of a letter-of-credit issuer or nominated person, G.S. 25-9-110 on a security interest arising under Article 2 or 2A of this Chapter, and G.S. 25-9-206 on security interests in investment property.

(d) When person becomes bound by another person's security agreement. -- A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this Article or by contract:

(1) The security agreement becomes effective to create a security interest in the person's property; or

(2) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(e) Effect of new debtor becoming bound. -- If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(1) The agreement satisfies subdivision (b)(3) of this section with respect to existing or after-acquired property of the new

debtor to the extent the property is described in the agreement; and

(2) Another agreement is not necessary to make a security interest in the property enforceable.

(f) Proceeds and supporting obligations. -- The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by G.S. 25-9-315 and is also attachment of a security interest in a supporting obligation for the collateral.

(g) Lien securing right to payment. -- The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(h) Security entitlement carried in securities account. -- The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) Commodity contracts carried in commodity account. -- The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

"§ *25-9-204. After-acquired property; future advances.*

(a) After-acquired collateral. -- Except as otherwise provided in subsection (b) of this section, a security agreement may create or provide for a security interest in after-acquired collateral.

(b) When after-acquired property clause not effective. -- A security interest does not attach under a term constituting an after-acquired property clause to:

(1) Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within 10 days after the secured party gives value; or

(2) A commercial tort claim.

(c) Future advances and other value. -- A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with future advances or other value, whether or not the advances or value are given pursuant to commitment.

"§ *25-9-205. Use or disposition of collateral permissible.*

(a) When security interest not invalid or fraudulent. -- A security interest is not invalid or fraudulent against creditors solely because:

(1) The debtor has the right or ability to:

a. Use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;

b. Collect, compromise, enforce, or otherwise deal with collateral;

c. Accept the return of collateral or make repossessions; or

d. Use, commingle, or dispose of proceeds; or

(2) The secured party fails to require the debtor to account for proceeds or replace collateral.

(b) Requirements of possession not relaxed. -- This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

"§ 25-9-206. *Security interest arising in purchase or delivery of financial asset.*

(a) Security interest when person buys through securities intermediary. -- A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

(1) The person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and

(2) The securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

(b) Security interest secures obligation to pay for financial asset. -- The security interest described in subsection (a) of this section secures the person's obligation to pay for the financial asset.

(c) Security interest in payment against delivery transaction. -- A security interest in favor of a person that delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

(1) The security or other financial asset:

a. In the ordinary course of business is transferred by delivery with any necessary indorsement or assignment; and

b. Is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and

(2) The agreement calls for delivery against payment.

(d) Security interest secures obligation to pay for delivery. -- The security interest described in subsection (c) of this section secures the obligation to make payment for the delivery.

"SUBPART 2. RIGHTS AND DUTIES.

"§ 25-9-207. *Rights and duties of secured party having possession or control of collateral.*

(a) Duty of care when secured party in possession. -- Except as otherwise provided in subsection (d) of this section, a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) Expenses, risks, duties, and rights when secured party in possession. -- Except as otherwise provided in subsection (d) of this section, if a secured party has possession of collateral:

(1) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody,

preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(2) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(3) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(4) The secured party may use or operate the collateral:

a. For the purpose of preserving the collateral or its value;

b. As permitted by an order of a court having competent jurisdiction; or

c. Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) Rights and duties when secured party in possession or control. -- Except as otherwise provided in subsection (d) of this section, a secured party having possession of collateral or control of collateral under G.S. 25-9-104, 25-9-105, 25-9-106, or 25-9-107:

(1) May hold as additional security any proceeds, except money or funds, received from the collateral;

(2) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) May create a security interest in the collateral.

(d) Buyer of certain rights to payment. -- If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(1) Subsection (a) of this section does not apply unless the secured party is entitled under an agreement:

a. To charge back uncollected collateral; or

b. Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(2) Subsections (b) and (c) of this section do not apply.

"*§ 25-9-208. Additional duties of secured party having control of collateral.*

(a) Applicability of section. -- This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Duties of secured party after receiving demand from debtor. -- Within 10 days after receiving an authenticated demand by the debtor:

(1) A secured party having control of a deposit account under G.S. 25-9-104(a)(2) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) A secured party having control of a deposit account under G.S. 25-9-104(a)(3) shall:

a. Pay the debtor the balance on deposit in the deposit account; or

b. Transfer the balance on deposit into a deposit account in the debtor's name;

(3) A secured party, other than a buyer, having control of electronic chattel paper under G.S. 25-9-105 shall:

a. Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

b. If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

c. Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;

(4) A secured party having control of investment property under G.S. 25-8-106(d)(2) or G.S. 25-9-106(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and

(5) A secured party having control of a letter-of-credit right under G.S. 25-9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

"§ 25-9-209. Duties of secured party if account debtor has been notified of assignment.

(a) Applicability of section. -- Except as otherwise provided in subsection (c) of this section, this section applies if:

(1) There is no outstanding secured obligation; and

(2) The secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Duties of secured party after receiving demand from debtor. -- Within 10 days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under G.S. 25-9-406(a) an authenticated record that releases the account debtor from any further obligation to the secured party.

(c) Inapplicability to sales. -- This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

"§ 25-9-210. Request for accounting; request regarding list of collateral or statement of account.

(a) Definitions. -- In this section:

(1) 'Request' means a record of a type described in subdivision (2), (3), or (4) of this subsection.

(2) 'Request for an accounting' means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(3) 'Request regarding a list of collateral' means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(4) 'Request regarding a statement of account' means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(b) Duty to respond to requests. -- Subject to subsections (c), (d), (e), and (f) of this section, a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within 14 days after receipt:

(1) In the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and

(2) In the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.

(c) Request regarding list of collateral; statement concerning type of collateral. -- A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record including a statement to that effect within 14 days after receipt.

(d) Request regarding list of collateral; no interest claimed. -- A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

(1) Disclaiming any interest in the collateral; and

(2) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(e) Request for accounting or regarding statement of account; no interest in obligation claimed. -- A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

(1) Disclaiming any interest in the obligations; and

(2) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(f) Charges for responses. -- A debtor is entitled without charge to one response to a request under this section during any six-month period. The secured party may require payment of a charge not exceeding twenty-five dollars ($25.00) for each additional response.

"PART 3.

"PERFECTION AND PRIORITY.

"SUBPART 1. LAW GOVERNING PERFECTION AND PRIORITY.

"§ 25-9-301. *Law governing perfection and priority of security interests.*

Except as otherwise provided in G.S. 25-9-303 through G.S. 25-9-306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subdivision (4) of this section, while negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

a. Perfection of a security interest in the goods by filing a fixture filing;

b. Perfection of a security interest in timber to be cut; and

c. The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

"§ 25-9-302. *Law governing perfection and priority of agricultural liens.*

While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

"§ 25-9-303. *Law governing perfection and priority of security interests in goods covered by a certificate of title.*

(a) Applicability of section. -- This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(b) When goods covered by certificate of title. -- Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(c) Applicable law. -- The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

"§ 25-9-304. *Law governing perfection and priority of security interests in deposit accounts.*

(a) Law of bank's jurisdiction governs. -- The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(b) Bank's jurisdiction. -- The following rules determine a bank's jurisdiction for purposes of this Part:

(1) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this Part, this Article, or this Chapter, that jurisdiction is the bank's jurisdiction.

(2) If subdivision (1) of this subsection does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) of this subsection applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in

a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(4) If none of subdivisions (1), (2), and (3) of this subsection applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(5) If none of subdivisions (1), (2), (3), and (4) of this subsection applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

"§ 25-9-305. Law governing perfection and priority of security interests in investment property.

(a) Governing law: general rules. -- Except as otherwise provided in subsection (c) of this section, the following rules apply:

(1) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.

(2) The local law of the issuer's jurisdiction as specified in G.S. 25-8-110(d) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(3) The local law of the securities intermediary's jurisdiction as specified in G.S. 25-8-110(e) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(4) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(b) Commodity intermediary's jurisdiction. -- The following rules determine a commodity intermediary's jurisdiction for purposes of this Part:

(1) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this Part, this Article, or this Chapter, that jurisdiction is the commodity intermediary's jurisdiction.

(2) If subdivision (1) of this subsection does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) of this subsection applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity

account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(4) If none of subdivisions (1), (2), and (3) of this subsection applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(5) If none of subdivisions (1), (2), (3), and (4) of this subsection applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(c) When perfection governed by law of jurisdiction where debtor located. -- The local law of the jurisdiction in which the debtor is located governs:

(1) Perfection of a security interest in investment property by filing;

(2) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(3) Automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

"§ 25-9-306. *Law governing perfection and priority of security interests in letter-of-credit rights.*

(a) Governing law: issuer's or nominated person's jurisdiction. -- Subject to subsection (c) of this section, the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(b) Issuer's or nominated person's jurisdiction. -- For purposes of this Part, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in G.S. 25-5-116.

(c) When section not applicable. -- This section does not apply to a security interest that is perfected only under G.S. 25-9-308(d).

"§ 25-9-307. *Location of debtor.*

(a) 'Place of business.' -- In this section, 'place of business' means a place where a debtor conducts its affairs.

(b) Debtor's location: general rules. -- Except as otherwise provided in this section, the following rules determine a debtor's location:

(1) A debtor who is an individual is located at the individual's principal residence.

(2) A debtor that is an organization and has only one place of business is located at its place of business.

(3) A debtor that is an organization and has more than one place of business is located at its chief executive office.

(c) Limitation of applicability of subsection (b). -- Subsection (b) of this section applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (b) of this section does not apply, the debtor is located in the District of Columbia.

(d) Continuation of location: cessation of existence, etc. -- A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (b) and (c) of this section.

(e) Location of registered organization organized under state law. -- A registered organization that is organized under the law of a state is located in that state.

(f) Location of registered organization organized under federal law; bank branches and agencies. -- Except as otherwise provided in subsection (i) of this section, a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(1) In the state that the law of the United States designates, if the law designates a state of location;

(2) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location; or

(3) In the District of Columbia, if neither subdivision (1) nor subdivision (2) of this subsection applies.

(g) Continuation of location: change in status of registered organization. -- A registered organization continues to be located in the jurisdiction specified by subsection (e) or (f) of this section notwithstanding:

(1) The suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

(2) The dissolution, winding up, or cancellation of the existence of the registered organization.

(h) Location of United States. -- The United States is located in the District of Columbia.

(i) Location of foreign bank branch or agency if licensed in only one state. -- A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one state.

(j) Location of foreign air carrier. -- A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the

designated office of the agent upon which service of process may be made on behalf of the carrier.

(k) Section applies only to this Part. -- This section applies only for purposes of this Part.

"SUBPART 2. PERFECTION.

"§ *25-9-308. When security interest or agricultural lien is perfected; continuity of perfection.*

(a) Perfection of security interest. -- Except as otherwise provided in this section and G.S. 25-9-309, a security interest is perfected if it has attached and all of the applicable requirements for perfection in G.S. 25-9-310 through G.S. 25-9-316 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(b) Perfection of agricultural lien. -- An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in G.S. 25-9-310 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(c) Continuous perfection; perfection by different methods. -- A security interest or agricultural lien is perfected continuously if it is originally perfected by one method under this Article and is later perfected by another method under this Article, without an intermediate period when it was unperfected.

(d) Supporting obligation. -- Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(e) Lien securing right to payment. -- Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

(f) Security entitlement carried in securities account. -- Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(g) Commodity contract carried in commodity account. -- Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

"§ *25-9-309. Security interest perfected upon attachment.*

The following security interests are perfected when they attach:

(1) A purchase-money security interest in consumer goods, except as otherwise provided in G.S. 25-9-311(b) with respect to consumer goods that are subject to a statute or treaty described in G.S. 25-9-311(a);

(2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;

(3) A sale of a payment intangible;

(4) A sale of a promissory note;
(5) A security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;
(6) A security interest arising under G.S. 25-2-401, 25-2-505, 25-2-711(3), or 25-2A-508(5), until the debtor obtains possession of the collateral;
(7) A security interest of a collecting bank arising under G.S. 25-4-208;
(8) A security interest of an issuer or nominated person arising under G.S. 25-5-118;
(9) A security interest arising in the delivery of a financial asset under G.S. 25-9-206(c);
(10) A security interest in investment property created by a broker or securities intermediary;
(11) A security interest in a commodity contract or a commodity account created by a commodity intermediary;
(12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; and
(13) A security interest created by an assignment of a beneficial interest in a decedent's estate.

"§ 25-9-310. When filing required to perfect security interest or agricultural lien; security interests and agricultural liens to which filing provisions do not apply.

(a) General rule: perfection by filing. -- Except as otherwise provided in subsection (b) of this section and G.S. 25-9-312(b), a financing statement must be filed to perfect all security interests and agricultural liens.

(b) Exceptions: filing not necessary. -- The filing of a financing statement is not necessary to perfect a security interest:

(1) That is perfected under G.S. 25-9-308(d), (e), (f), or (g);
(2) That is perfected under G.S. 25-9-309 when it attaches;
(3) In property subject to a statute, regulation, or treaty described in G.S. 25-9-311(a);
(4) In goods in possession of a bailee which is perfected under G.S. 25-9-312(d)(1) or (2);
(5) In certificated securities, documents, goods, or instruments which is perfected without filing or possession under G.S. 25-9-312(e), (f), or (g);
(6) In collateral in the secured party's possession under G.S. 25-9-313;
(7) In a certificated security which is perfected by delivery of the security certificate to the secured party under G.S. 25-9-313;
(8) In deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights which is perfected by control under G.S. 25-9-314;
(9) In proceeds which is perfected under G.S. 25-9-315;

(10) That is perfected under G.S. 25-9-316; or

(11) Created in connection with the issuance of any bond, note, or other evidence of indebtedness for borrowed money by this State or any political subdivision or agency thereof, except as provided in G.S. 63A-11(e), 143B-456.1(f), 159C-28, and 159D-23.

(c) Assignment of perfected security interest. -- If a secured party assigns a perfected security interest or agricultural lien, a filing under this Article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

"*§ 25-9-311. Perfection of security interests in property subject to certain statutes, regulations, and treaties.*

(a) Security interest subject to other law. -- Except as otherwise provided in subsection (d) of this section, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt G.S. 25-9-310(a);

(2) A certificate-of-title statute of this State covering automobiles or other goods that provides for a security interest to be indicated on the certificate as a condition to or result of perfection of the security interest, including G.S. 20-58 and G.S. 75A-41; or

(3) A certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) Compliance with other law. -- Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) of this section for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this Article. Except as otherwise provided in subsection (d) of this section and G.S. 25-9-313 and G.S. 25-9-316(d) and (e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) of this section may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Duration and renewal of perfection. -- Except as otherwise provided in subsection (d) of this section and G.S. 25-9-316(d) and (e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) of this section are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this Article.

(d) Inapplicability to certain inventory. -- During any period in which collateral subject to a statute specified in subdivision (a)(2) of this section is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

"§ 25-9-312. Perfection of security interests in chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letter-of-credit rights, and money; perfection by permissive filing; temporary perfection without filing or transfer of possession.

(a) Perfection by filing permitted. -- A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(b) Control or possession of certain collateral. -- Except as otherwise provided in G.S. 25-9-315(c) and (d) for proceeds:

(1) A security interest in a deposit account may be perfected only by control under G.S. 25-9-314;

(2) And except as otherwise provided in G.S. 25-9-308(d), a security interest in a letter-of-credit right may be perfected only by control under G.S. 25-9-314; and

(3) A security interest in money may be perfected only by the secured party's taking possession under G.S. 25-9-313.

(c) Goods covered by negotiable document. -- While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(1) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(2) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) Goods covered by nonnegotiable document. -- While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(1) Issuance of a document in the name of the secured party;

(2) The bailee's receipt of notification of the secured party's interest; or

(3) Filing as to the goods.

(e) Temporary perfection: new value. -- A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession for a period of 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(f) Temporary perfection: goods or documents made available to debtor. -- A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for 20 days

without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(1) Ultimate sale or exchange; or

(2) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) Temporary perfection: delivery of security certificate or instrument to debtor. -- A perfected security interest in a certificated security or instrument remains perfected for 20 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(1) Ultimate sale or exchange; or

(2) Presentation, collection, enforcement, renewal, or registration of transfer.

(h) Expiration of temporary perfection. -- After the 20-day period specified in subsection (e), (f), or (g) of this section expires, perfection depends upon compliance with this Article.

"*§ 25-9-313. When possession by or delivery to secured party perfects security interest without filing.*

(a) Perfection by possession or delivery. -- Except as otherwise provided in subsection (b) of this section, a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under G.S. 25-8-301.

(b) Goods covered by certificate of title. -- With respect to goods covered by a certificate of title issued by this State, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in G.S. 25-9-316(d).

(c) Collateral in possession of person other than debtor. -- With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(1) The person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(2) The person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.

(d) Time of perfection by possession; continuation of perfection. -- If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) Time of perfection by delivery; continuation of perfection. -- A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs

under G.S. 25-8-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) Acknowledgment not required. -- A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) Effectiveness of acknowledgment; no duties or confirmation. -- If a person acknowledges that it holds possession for the secured party's benefit:

(1) The acknowledgment is effective under subsection (c) of this section or G.S. 25-8-301(a), even if the acknowledgment violates the rights of a debtor; and

(2) Unless the person otherwise agrees or law other than this Article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(h) Secured party's delivery to person other than debtor. -- A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(1) To hold possession of the collateral for the secured party's benefit; or

(2) To redeliver the collateral to the secured party.

(i) Effect of delivery under subsection (h); no duties or confirmation. -- A secured party does not relinquish possession, even if a delivery under subsection (h) of this section violates the rights of a debtor. A person to which collateral is delivered under subsection (h) of this section does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this Article otherwise provides.

"*§ 25-9-314. Perfection by control.*

(a) Perfection by control. -- A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral under G.S. 25-9-104, 25-9-105, 25-9-106, or 25-9-107.

(b) Specified collateral: time of perfection by control; continuation of perfection. -- A security interest in deposit accounts, electronic chattel paper, or letter-of-credit rights is perfected by control under G.S. 25-9-104, 25-9-105, or 25-9-107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) Investment property: time of perfection by control; continuation of perfection. -- A security interest in investment property is perfected by control under G.S. 25-9-106 from the time the secured party obtains control and remains perfected by control until:

(1) The secured party does not have control; and

(2) One of the following occurs:

a. If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;
b. If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or
c. If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

"*§ 25-9-315. Secured party's rights on disposition of collateral and in proceeds.*

(a) Disposition of collateral: continuation of security interest or agricultural lien; proceeds. -- Except as otherwise provided in this Article and in G.S. 25-2-403(2):

(1) A security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and
(2) A security interest attaches to any identifiable proceeds of collateral.

(b) When commingled proceeds identifiable. -- Proceeds that are commingled with other property are identifiable proceeds:

(1) If the proceeds are goods, to the extent provided by G.S. 25-9-336; and
(2) If the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this Article with respect to commingled property of the type involved.

(c) Perfection of security interest in proceeds. -- A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(d) Continuation of perfection. -- A perfected security interest in proceeds becomes unperfected on the twenty-first day after the security interest attaches to the proceeds unless:

(1) The following conditions are satisfied:
a. A filed financing statement covers the original collateral;
b. The proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and
c. The proceeds are not acquired with cash proceeds;
(2) The proceeds are identifiable cash proceeds; or
(3) The security interest in the proceeds is perfected other than under subsection (c) of this section when the security interest attaches to the proceeds or within 20 days thereafter.

(e) When perfected security interest in proceeds becomes unperfected. -- If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under subdivision (d)(1) of this section becomes unperfected at the later of:

(1) When the effectiveness of the filed financing statement lapses under G.S. 25-9-515 or is terminated under G.S. 25-9-513; or

(2) The twenty-first day after the security interest attaches to the proceeds.

"§ 25-9-316. Continued perfection of security interest following change in governing law.

(a) General rule: effect on perfection of change in governing law. -- A security interest perfected pursuant to the law of the jurisdiction designated in G.S. 25-9-301(1) or G.S. 25-9-305(c) remains perfected until the earliest of:

(1) The time perfection would have ceased under the law of that jurisdiction;

(2) The expiration of four months after a change of the debtor's location to another jurisdiction; or

(3) The expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) Security interest perfected or unperfected under law of new jurisdiction. -- If a security interest described in subsection (a) of this section becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) Possessory security interest in collateral moved to new jurisdiction. -- A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(1) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(2) Thereafter the collateral is brought into another jurisdiction; and

(3) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) Goods covered by certificate of title from this State. -- Except as otherwise provided in subsection (e) of this section, a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this State remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) When subsection (d) security interest becomes unperfected against purchasers. -- A security interest described in subsection (d) of this section becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for

perfection under G.S. 25-9-311(b) or G.S. 25-9-313 are not satisfied before the earlier of:

(1) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this State; or

(2) The expiration of four months after the goods had become so covered.

(f) Change in jurisdiction of bank, issuer, nominated person, securities intermediary, or commodity intermediary. -- A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(1) The time the security interest would have become unperfected under the law of that jurisdiction; or

(2) The expiration of four months after a change of the applicable jurisdiction to another jurisdiction.

(g) Subsection (f) security interest perfected or unperfected under law of new jurisdiction. -- If a security interest described in subsection (f) of this section becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

"SUBPART 3. PRIORITY.

"§ 25-9-317. Interests that take priority over or take free of security interest or agricultural lien.

(a) Conflicting security interests and rights of lien creditors. -- A security interest or agricultural lien is subordinate to the rights of:

(1) A person entitled to priority under G.S. 25-9-322; and

(2) Except as otherwise provided in subsection (e) of this section, a person that becomes a lien creditor before the earlier of the time:

a. The security interest or agricultural lien is perfected; or

b. One of the conditions specified in G.S. 25-9-203(b)(3) is met and a financing statement covering the collateral is filed.

(b) Buyers that receive delivery. -- Except as otherwise provided in subsection (e) of this section, a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Lessees that receive delivery. -- Except as otherwise provided in subsection (e) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) Licensees and buyers of certain collateral. -- A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Purchase-money security interest. -- Except as otherwise provided in G.S. 25-9-320 and G.S. 25-9-321, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

"§ 25-9-318. No interest retained in right to payment that is sold; rights and title of seller of account or chattel paper with respect to creditors and purchasers.

(a) Seller retains no interest. -- A debtor that has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

(b) Deemed rights of debtor if buyer's security interest unperfected. -- For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor that has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

"§ 25-9-319. Rights and title of consignee with respect to creditors and purchasers.

(a) Consignee has consignor's rights. -- Except as otherwise provided in subsection (b) of this section, for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

(b) Applicability of other law. -- For purposes of determining the rights of a creditor of a consignee, law other than this Article determines the rights and title of a consignee while goods are in the consignee's possession if, under this Part, a perfected security interest held by the consignor would have priority over the rights of the creditor.

"§ 25-9-320. Buyer of goods.

(a) Buyer in ordinary course of business. -- Except as otherwise provided in subsection (e) of this section, a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created

by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(b) Buyer of consumer goods. -- Except as otherwise provided in subsection (e) of this section, a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

(1) Without knowledge of the security interest;

(2) For value;

(3) Primarily for the buyer's personal, family, or household purposes; and

(4) Before the filing of a financing statement covering the goods.

(c) Effectiveness of filing for subsection (b). -- To the extent that it affects the priority of a security interest over a buyer of goods under subsection (b) of this section, the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by G.S. 25-9-316(a) and (b).

(d) Buyer in ordinary course of business at wellhead or minehead. -- A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(e) Possessory security interest not affected. -- Subsections (a) and (b) of this section do not affect a security interest in goods in the possession of the secured party under G.S. 25-9-313.

"§ 25-9-321. *Licensee of general intangible and lessee of goods in ordinary course of business.*

(a) 'Licensee in ordinary course of business'. -- In this section, 'licensee in ordinary course of business' means a person that becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(b) Rights of licensee in ordinary course of business. -- A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(c) Rights of lessee in ordinary course of business. -- A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

"§ 25-9-322. *Priorities among conflicting security interests in and agricultural liens on same collateral.*

(a) General priority rules. -- Except as otherwise provided in this section, priority among conflicting security interests and agricultural

liens in the same collateral is determined according to the following rules:

(1) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made or the security interest or agricultural lien is first perfected, if there is no period thereafter when there is neither filing nor perfection.

(2) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

(3) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

(b) Time of perfection: proceeds and supporting obligations. -- For the purposes of subdivision (a)(1) of this section:

(1) The time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and

(2) The time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(c) Special priority rules: proceeds and supporting obligations. -- Except as otherwise provided in subsection (f) of this section, a security interest in collateral which qualifies for priority over a conflicting security interest under G.S. 25-9-327, 25-9-328, 25-9-329, 25-9-330, or 25-9-331 also has priority over a conflicting security interest in:

(1) Any supporting obligation for the collateral; and

(2) Proceeds of the collateral if:

a. The security interest in proceeds is perfected;

b. The proceeds are cash proceeds or of the same type as the collateral; and

c. In the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(d) First-to-file priority rule for certain collateral. -- Subject to subsection (e) of this section and except as otherwise provided in subsection (f) of this section, if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(e) Applicability of subsection (d). -- Subsection (d) of this section applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(f) Limitations on subsections (a) through (e). -- Subsections (a) through (e) of this section are subject to:

(1) Subsection (g) of this section and the other provisions of this Part;

(2) G.S. 25-4-208 with respect to a security interest of a collecting bank;

(3) G.S. 25-5-118 with respect to a security interest of an issuer or nominated person; and

(4) G.S. 25-9-110 with respect to a security interest arising under Article 2 or 2A of this Chapter.

(g) Priority under agricultural lien statute. -- A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

"*§ 25-9-323. Future advances.*

(a) When priority based on time of advance. -- Except as otherwise provided in subsection (c) of this section, for purposes of determining the priority of a perfected security interest under G.S. 25-9-322(a)(1), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(1) Is made while the security interest is perfected only:

a. Under G.S. 25-9-309 when it attaches; or

b. Temporarily under G.S. 25-9-312(e), (f), or (g); and

(2) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under G.S. 25-9-309 or G.S. 25-9-312(e), (f), or (g).

(b) Lien creditor. -- Except as otherwise provided in subsection (c) of this section, a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than 45 days after the person becomes a lien creditor unless the advance is made:

(1) Without knowledge of the lien; or

(2) Pursuant to a commitment entered into without knowledge of the lien.

(c) Buyer of receivables. -- Subsections (a) and (b) of this section do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(d) Buyer of goods. -- Except as otherwise provided in subsection (e) of this section, a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

(1) The time the secured party acquires knowledge of the buyer's purchase; or

(2) 45 days after the purchase.

(e) Advances made pursuant to commitment: priority of buyer of goods. -- Subsection (d) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the 45-day period.

(f) Lessee of goods. -- Except as otherwise provided in subsection (g) of this section, a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(1) The time the secured party acquires knowledge of the lease; or

(2) 45 days after the lease contract becomes enforceable.

(g) Advances made pursuant to commitment: priority of lessee of goods. -- Subsection (f) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.

"*§ 25-9-324. Priority of purchase-money security interests.*

(a) General rule: purchase-money priority. -- Except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in G.S. 25-9-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within 20 days thereafter.

(b) Inventory purchase-money priority. -- Subject to subsection (c) of this section and except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in G.S. 25-9-330, and, except as otherwise provided in G.S. 25-9-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(1) The purchase-money security interest is perfected when the debtor receives possession of the inventory;

(2) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) The holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(4) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(c) Holders of conflicting inventory security interests to be notified. -- Subdivisions (b)(2) through (b)(4) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(1) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) If the purchase-money security interest is temporarily perfected without filing or possession under G.S. 25-9-312(f), before the beginning of the 20-day period thereunder.

(d) Livestock purchase-money priority. -- Subject to subsection (e) of this section and except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in G.S. 25-9-327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(1) The purchase-money security interest is perfected when the debtor receives possession of the livestock;

(2) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) The holder of the conflicting security interest receives the notification within six months before the debtor receives possession of the livestock; and

(4) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(e) Holders of conflicting livestock security interests to be notified. -- Subdivisions (d)(2) through (d)(4) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(1) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) If the purchase-money security interest is temporarily perfected without filing or possession under G.S. 25-9-312(f), before the beginning of the 20-day period thereunder.

(f) Software purchase-money priority. -- Except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in G.S. 25-9-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(g) Conflicting purchase-money security interests. -- If more than one security interest qualifies for priority in the same collateral under subsection (a), (b), (d), or (f) of this section:

(1) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(2) In all other cases, G.S. 25-9-322(a) applies to the qualifying security interests.

"§ 25-9-324.1. Priority of production-money security interests and agricultural liens.

(a) Priority over conflicting security interests. -- Except as otherwise provided in subsections (c), (d), and (e) of this section, if the requirements of subsection (b) of this section are satisfied, a perfected production-money security interest in production-money crops has priority over a conflicting security interest in the same crops and, except as otherwise provided in G.S. 25-9-327, also has priority in their identifiable proceeds.

(b) Requirements for priority. -- A production-money security interest has priority under subsection (a) of this section if:

(1) The production-money security interest is perfected by filing when the production-money secured party first gives new value to enable the debtor to produce the crops;

(2) The production-money secured party sends an authenticated notification to the holder of the conflicting security interest not less than 10 or more than 30 days before the production-money secured party first gives new value to enable the debtor to produce the crops if the holder had filed a financing statement covering the crops before the date of the filing made by the production-money secured party; and

(3) The notification states that the production-money secured party has or expects to acquire a production-money security interest in the debtor's crops and provides a description of the crops.

(c) Multiple production-money security interests. -- Except as otherwise provided in subsection (d) or (e) of this section, if more than one security interest qualifies for priority in the same collateral under subsection (a) of this section, the security interests rank according to priority in time of filing under G.S. 25-9-322(a).

(d) New value to produce production-money crops. -- To the extent that a person holding a perfected security interest in production-money crops that are the subject of a production-money security interest gives new value to enable the debtor to produce the production-money crops and the value is in fact used for the production of the production-money crops, the security interests rank according to priority in time of filing under G.S. 25-9-322(a).

(e) Holder of agricultural lien and production-money security interest. -- To the extent that a person holds both an agricultural lien and a production-money security interest in the same collateral securing the same obligations, the rules of priority applicable to agricultural liens govern priority.

(f) Creating or perfecting production-money security interest not to operate as default or accelerating event. -- Creating or perfecting a production-money security interest shall not operate under any circumstances as a default on, an accelerating event under, or otherwise as a breach of any note or other instrument or agreement of

any kind or nature to pay debt, any loan or credit agreement, or any security agreement or arrangement of any kind or nature where the collateral is real or personal property.

"§ 25-9-325. Priority of security interests in transferred collateral.

(a) Subordination of security interest in transferred collateral. -- Except as otherwise provided in subsection (b) of this section, a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

(1) The debtor acquired the collateral subject to the security interest created by the other person;

(2) The security interest created by the other person was perfected when the debtor acquired the collateral; and

(3) There is no period thereafter when the security interest is unperfected.

(b) Limitation of subsection (a) subordination. -- Subsection (a) of this section subordinates a security interest only if the security interest:

(1) Otherwise would have priority solely under G.S. 25-9-322(a) or G.S. 25-9-324; or

(2) Arose solely under G.S. 25-2-711(3) or G.S. 25-2A-508(5).

"§ 25-9-326. Priority of security interests created by new debtor.

(a) Subordination of security interest created by new debtor. -- Subject to subsection (b) of this section, a security interest created by a new debtor which is perfected by a filed financing statement that is effective solely under G.S. 25-9-508 in collateral in which a new debtor has or acquires rights is subordinate to a security interest in the same collateral which is perfected other than by a filed financing statement that is effective solely under G.S. 25-9-508.

(b) Priority under other provisions; multiple original debtors. -- The other provisions of this Part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under G.S. 25-9-508. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

"§ 25-9-327. Priority of security interests in deposit account.

The following rules govern priority among conflicting security interests in the same deposit account:

(1) A security interest held by a secured party having control of the deposit account under G.S. 25-9-104 has priority over a conflicting security interest held by a secured party that does not have control.

(2) Except as otherwise provided in subdivisions (3) and (4) of this section, security interests perfected by control under G.S. 25-9-314 rank according to priority in time of obtaining control.

(3) Except as otherwise provided in subdivision (4) of this section, a security interest held by the bank with which the

deposit account is maintained has priority over a conflicting security interest held by another secured party.

(4) A security interest perfected by control under G.S. 25-9-104(a)(3) has priority over a security interest held by the bank with which the deposit account is maintained.

"*§ 25-9-328. Priority of security interests in investment property.*

The following rules govern priority among conflicting security interests in the same investment property:

(1) A security interest held by a secured party having control of investment property under G.S. 25-9-106 has priority over a security interest held by a secured party that does not have control of the investment property.

(2) Except as otherwise provided in subdivisions (3) and (4) of this section, conflicting security interests held by secured parties each of which has control under G.S. 25-9-106 rank according to priority in time of:

a. If the collateral is a security, obtaining control;

b. If the collateral is a security entitlement carried in a securities account and:

1. If the secured party obtained control under G.S. 25-8-106(d)(1), the secured party's becoming the person for which the securities account is maintained;

2. If the secured party obtained control under G.S. 25-8-106(d)(2), the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or

3. If the secured party obtained control through another person under G.S. 25-8-106(d)(3), the time on which priority would be based under this subdivision if the other person were the secured party; or

c. If the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in G.S. 25-9-106(b)(2) with respect to commodity contracts carried or to be carried with the commodity intermediary.

(3) A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.

(4) A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with the commodity intermediary has priority over a conflicting security interest held by another secured party.

(5) A security interest in a certificated security in registered form which is perfected by taking delivery under G.S. 25-9-313(a) and not by control under G.S. 25-9-314 has priority over a conflicting security interest perfected by a method other than control.

(6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary which are perfected without control under G.S. 25-9-106 rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by G.S. 25-9-322 and G.S. 25-9-323.

"§ *25-9-329. Priority of security interests in letter-of-credit right.*

The following rules govern priority among conflicting security interests in the same letter-of-credit right:

(1) A security interest held by a secured party having control of the letter-of-credit right under G.S. 25-9-107 has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under G.S. 25-9-314 rank according to priority in time of obtaining control.

"§ *25-9-330. Priority of purchaser of chattel paper or instrument.*

(a) Purchaser's priority: security interest claimed merely as proceeds. -- A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(1) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under G.S. 25-9-105; and

(2) The chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

(b) Purchaser's priority: other security interests. -- A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under G.S. 25-9-105 in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(c) Chattel paper purchaser's priority in proceeds. -- Except as otherwise provided in G.S. 25-9-327, a purchaser having priority in chattel paper under subsection (a) or (b) of this section also has priority in proceeds of the chattel paper to the extent that:

(1) G.S. 25-9-322 provides for priority in the proceeds; or

(2) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(d) Instrument purchaser's priority. -- Except as otherwise provided in G.S. 25-9-331(a), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(e) Holder of purchase-money security interest gives new value. -- For purposes of subsections (a) and (b) of this section, the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(f) Indication of assignment gives knowledge. -- For purposes of subsections (b) and (d) of this section, if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

"§ 25-9-331. Priority of rights of purchasers of instruments, documents, and securities under other Articles; priority of interests in financial assets and security entitlements under Article 8.

(a) Rights under Articles 3, 7, and 8 not limited. -- This Article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Articles 3, 7, and 8 of this Chapter.

(b) Protection under Article 8. -- This Article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under Article 8 of this Chapter.

(c) Filing not notice. -- Filing under this Article does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections (a) and (b) of this section.

"§ 25-9-332. Transfer of money; transfer of funds from deposit account.

(a) Transferee of money. -- A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

(b) Transferee of funds from deposit account. -- A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

"§ 25-9-333. Priority of certain liens arising by operation of law.

(a) 'Possessory lien.' -- In this section, 'possessory lien' means an interest, other than a security interest or an agricultural lien:

(1) Which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;

(2) Which is created by statute or rule of law in favor of the person; and

(3) Whose effectiveness depends on the person's possession of the goods.

(b) Priority of possessory lien. -- A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

"§ 25-9-334. Priority of security interests in fixtures and crops.

(a) Security interest in fixtures under this Article. -- A security interest under this Article may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this Article in ordinary building materials incorporated into an improvement on land.

(b) Security interest in fixtures under real-property law. -- This Article does not prevent creation of an encumbrance upon fixtures under real property law.

(c) General rule: subordination of security interest in fixtures. -- In cases not governed by subsections (d) through (h) of this section, a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(d) Fixtures purchase-money priority. -- Except as otherwise provided in subsection (h) of this section, a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

(1) The security interest is a purchase-money security interest;

(2) The interest of the encumbrancer or owner arises before the goods become fixtures; and

(3) The security interest is perfected by a fixture filing before the goods become fixtures or within 20 days thereafter.

(e) Priority of security interest in fixtures over interests in real property. -- A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) The debtor has an interest of record in the real property or is in possession of the real property and the security interest:
   a. Is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and
   b. Has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

(2) Before the goods become fixtures, the security interest is perfected by any method permitted by this Article and the fixtures are readily removable:
   a. Factory or office machines;
   b. Equipment that is not primarily used or leased for use in the operation of the real property; or
   c. Replacements of domestic appliances that are consumer goods;

(3) The conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this Article; or

(4) The security interest is:
   a. Created in a manufactured home in a manufactured-home transaction; and

b. Perfected pursuant to a statute described in G.S. 25-9-311(a)(2).

(f) Priority based on consent, disclaimer, or right to remove. -- A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) The encumbrancer or owner has, in an authenticated record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

(2) The debtor has a right to remove the goods as against the encumbrancer or owner.

(g) Continuation of subdivision (f)(2) priority. -- The priority of the security interest under subdivision (f)(2) of this section continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(h) Priority of construction mortgage. -- A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections (e) and (f) of this section, a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(i) Priority of security interest in crops. -- Except as provided in G.S. 42-15, a perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

"§ 25-9-335. *Accessions.*

(a) Creation of security interest in accession. -- A security interest may be created in an accession and continues in collateral that becomes an accession.

(b) Perfection of security interest. -- If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(c) Priority of security interest. -- Except as otherwise provided in subsection (d) of this section, the other provisions of this Part determine the priority of a security interest in an accession.

(d) Compliance with certificate-of-title statute. -- A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under G.S. 25-9-311(b).

(e) Removal of accession after default. -- After default, subject to Part 6 of this Article, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(f) Reimbursement following removal. -- A secured party that removes an accession from other goods under subsection (e) of this section shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

"*§ 25-9-336. Commingled goods.*

(a) 'Commingled goods.' -- In this section, 'commingled goods' means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(b) No security interest in commingled goods as such. -- A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(c) Attachment of security interest to product or mass. -- If collateral becomes commingled goods, a security interest attaches to the product or mass.

(d) Perfection of security interest. -- If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (c) of this section is perfected.

(e) Priority of security interest. -- Except as otherwise provided in subsection (f) of this section, the other provisions of this Part determine the priority of a security interest that attaches to the product or mass under subsection (c) of this section.

(f) Conflicting security interests in product or mass. -- If more than one security interest attaches to the product or mass under subsection (c) of this section, the following rules determine priority:

(1) A security interest that is perfected under subsection (d) of this section has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(2) If more than one security interest is perfected under subsection (d) of this section, the security interests rank equally in proportion to the value of the collateral at the time it became commingled goods.

"*§ 25-9-337. Priority of security interests in goods covered by certificate of title.*

If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this State issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

(1) A buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

(2) The security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under G.S. 25-9-311(b), after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

"§ 25-9-338. Priority of security interest or agricultural lien perfected by filed financing statement providing certain incorrect information.

If a security interest or agricultural lien is perfected by a filed financing statement providing information described in G.S. 25-9-516(b)(5) which is incorrect at the time the financing statement is filed:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

"§ 25-9-339. Priority subject to subordination.

This Article does not preclude subordination by agreement by a person entitled to priority.

"SUBPART 4. RIGHTS OF BANK.

"§ 25-9-340. Effectiveness of right of recoupment or setoff against deposit account.

(a) Exercise of recoupment or setoff. -- Except as otherwise provided in subsection (c) of this section, a bank with which a deposit account is maintained may exercise any right of recoupment or setoff against a secured party that holds a security interest in the deposit account.

(b) Recoupment or setoff not affected by security interest. -- Except as otherwise provided in subsection (c) of this section, the application of this Article to a security interest in a deposit account does not affect a right of recoupment or setoff of the secured party as to a deposit account maintained with the secured party.

(c) When setoff ineffective. -- The exercise by a bank of a setoff against a deposit account is ineffective against a secured party that holds a security interest in the deposit account which is perfected by control under G.S. 25-9-104(a)(3), if the setoff is based on a claim against the debtor.

"§ 25-9-341. Bank's rights and duties with respect to deposit account.

Except as otherwise provided in G.S. 25-9-340(c), and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

(1) The creation, attachment, or perfection of a security interest in the deposit account;

(2) The bank's knowledge of the security interest; or

(3) The bank's receipt of instructions from the secured party.

"§ 25-9-342. *Bank's right to refuse to enter into or disclose existence of control agreement.*

This Article does not require a bank to enter into an agreement of the kind described in G.S. 25-9-104(a)(2), even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

"PART 4.

"RIGHTS OF THIRD PARTIES.

"§ 25-9-401. *Alienability of debtor's rights.*

(a) Other law governs alienability; exceptions. -- Except as otherwise provided in subsection (b) of this section and G.S. 25-9-406, 25-9-407, 25-9-408, and 25-9-409, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this Article.

(b) Agreement does not prevent transfer. -- An agreement between the debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

"§ 25-9-402. *Secured party not obligated on contract of debtor or in tort.*

The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

"§ 25-9-403. *Agreement not to assert defenses against assignee.*

(a) 'Value.' -- In this section, 'value' has the meaning provided in G.S. 25-3-303(a).

(b) Agreement not to assert claim or defense. -- Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

(1) For value;

(2) In good faith;

(3) Without notice of a claim of a property or possessory right to the property assigned; and

(4) Without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under G.S. 25-3-305(a).

(c) When subsection (b) not applicable. -- Subsection (b) of this section does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under G.S. 25-3-305(b).

(d) Omission of required statement in consumer transaction. -- In a consumer transaction, if a record evidences the account debtor's obligation, law other than this Article requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement:

(1) The record has the same effect as if the record included such a statement; and

(2) The account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

(e) Rule for individual under other law. -- This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(f) Other law not displaced. -- Except as otherwise provided in subsection (d) of this section, this section does not displace law other than this Article which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

"§ *25-9-404. Rights acquired by assignee; claims and defenses against assignee.*

(a) Assignee's rights subject to terms, claims, and defenses; exceptions. -- Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (b) through (e) of this section, the rights of an assignee are subject to:

(1) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(2) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

(b) Account debtor's claim reduces amount owed to assignee. -- Subject to subsection (c) of this section and except as otherwise provided in subsection (d) of this section, the claim of an account debtor against an assignor may be asserted against an assignee under subsection (a) of this section only to reduce the amount the account debtor owes.

(c) Rule for individual under other law. -- This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) Omission of required statement in consumer transaction. -- In a consumer transaction, if a record evidences the account debtor's obligation, law other than this Article requires that the record include

a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(e) Inapplicability to health-care-insurance receivable. -- This section does not apply to an assignment of a health-care-insurance receivable.

"§ 25-9-405. Modification of assigned contract.

(a) Effect of modification on assignee. -- A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (b) through (d) of this section.

(b) Applicability of subsection (a). -- Subsection (a) of this section applies to the extent that:

(1) The right to payment or a part thereof under an assigned contract has not been fully earned by performance; or

(2) The right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under G.S. 25-9-406(a).

(c) Rule for individual under other law. -- This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) Inapplicability to health-care-insurance receivable. -- This section does not apply to an assignment of a health-care-insurance receivable.

"§ 25-9-406. Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.

(a) Discharge of account debtor; effect of notification. -- Subject to subsections (b) through (i) of this section, an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) When notification ineffective. -- Subject to subsection (h) of this section, notification is ineffective under subsection (a) of this section:

(1) If it does not reasonably identify the rights assigned;
(2) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this Article; or
(3) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:
a. Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;
b. A portion has been assigned to another assignee; or
c. The account debtor knows that the assignment to that assignee is limited.

(c) Proof of assignment. -- Subject to subsection (h) of this section, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a) of this section.

(d) Term restricting assignment generally ineffective. -- Except as otherwise provided in subsection (e) of this section and G.S. 25-2A-303 and G.S. 25-9-407 and subject to subsection (h) of this section, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:
(1) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or
(2) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) Inapplicability of subsection (d) to certain sales. -- Subsection (d) of this section does not apply to the sale of a payment intangible or promissory note.

(f) Legal restrictions on assignment generally ineffective. -- Except as otherwise provided in G.S. 25-2A-303 and G.S. 25-9-407 and subject to subsections (h) and (i) of this section, a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(2) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) Subdivision (b)(3) not waivable. -- Subject to subsection (h) of this section, an account debtor may not waive or vary its option under subdivision (b)(3) of this section.

(h) Rule for individual under other law. -- This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) Inapplicability. -- This section does not apply to an assignment of a health-care-insurance receivable. Subsection (f) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (f) of this section: North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes); North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes); North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes); North Carolina Firemen's and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes); Employment Security Law (Chapter 96 of the General Statutes); North Carolina Workers' Compensation Act (Article 1 of Chapter 97 of the General Statutes); and Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes).

(j) Section prevails over specified inconsistent law. -- Except to the extent otherwise provided in subsection (i) of this section, this section prevails over any inconsistent provision of an existing or future statute, rule, or regulation of this State unless the provision is contained in a statute of this State, refers expressly to this section, and states that the provision prevails over this section.

"*§ 25-9-407. Restrictions on creation or enforcement of security interest in leasehold interest or in lessor's residual interest.*

(a) Term restricting assignment generally ineffective. -- Except as otherwise provided in subsection (b) of this section, a term in a lease agreement is ineffective to the extent that it:

(1) Prohibits, restricts, or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(2) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(b) Effectiveness of certain terms. -- Except as otherwise provided in G.S. 25-2A-303(7), a term described in subdivision (a)(2) of this section is effective to the extent that there is:

(1) A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(2) A delegation of a material performance of either party to the lease contract in violation of the term.

(c) Security interest not material impairment. -- The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of G.S. 25-2A-303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

"§ 25-9-408. Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.

(a) Term restricting assignment generally ineffective. -- Except as otherwise provided in subsection (b) of this section, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) Applicability of subsection (a) to sales of certain rights to payment. -- Subsection (a) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(c) Legal restrictions on assignment generally ineffective. -- A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person

obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) Limitation on ineffectiveness under subsections (a) and (c). -- To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) of this section would be effective under law other than this Article but is ineffective under subsection (a) or (c) of this section, the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(1) Is not enforceable against the person obligated on the promissory note or the account debtor;

(2) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(4) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(5) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e) Section prevails over specified inconsistent law. -- Except to the extent otherwise provided in subsection (f) of this section, this section prevails over any inconsistent provision of an existing or future statute, rule, or regulation of this State unless the provision is contained in a

statute of this State, refers expressly to this section, and states that the provision prevails over this section.

(f) Inapplicability. -- Subsection (c) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (c) of this section: North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes); North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes); North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes); North Carolina Firemen's and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes); Employment Security Law (Chapter 96 of the General Statutes); North Carolina Workers' Compensation Act (Article 1 of Chapter 97 of the General Statutes); and Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes).

"§ *25-9-409. Restrictions on assignment of letter-of-credit rights ineffective.*

(a) Term or law restricting assignment generally ineffective. -- A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(1) Would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

(2) Provides that the assignment or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(b) Limitation on ineffectiveness under subsection (a). -- To the extent that a term in a letter of credit is ineffective under subsection (a) of this section but would be effective under law other than this Article or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

(1) Is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(2) Imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(3) Does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

"PART 5.
"FILING.
"SUBPART 1. FILING OFFICE; CONTENTS AND EFFECTIVENESS OF FINANCING STATEMENT.

"§ *25-9-501. Filing offices.*

(a) Filing offices. -- Except as otherwise provided in subsection (b) of this section, if the local law of this State governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(1) The office designated for the filing or recording of a record of a mortgage on the related real property, if:
   a. The collateral is as-extracted collateral or timber to be cut; or
   b. The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or
(2) The office of the Secretary of State, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(b) Filing office for transmitting utilities. -- The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

"§ *25-9-502. Contents of financing statement; record of mortgage as financing statement; time of filing financing statement.*

(a) Sufficiency of financing statement. -- Subject to subsection (b) of this section, a financing statement is sufficient only if it:

(1) Provides the name of the debtor;
(2) Provides the name of the secured party or a representative of the secured party; and
(3) Indicates the collateral covered by the financing statement.

(b) Real-property-related financing statements. -- Except as otherwise provided in G.S. 25-9-501(b), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (a) of this section and also:

(1) Indicate that it covers this type of collateral;
(2) Indicate that it is to be filed in the real property records;
(3) Provide a description of the real property to which the collateral is related; and
(4) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) Record of mortgage as financing statement. -- A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(1) The record indicates the goods or accounts that it covers;
(2) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
(3) The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and
(4) The record is duly recorded.

(d) Filing before security agreement or attachment. -- A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

"§ 25-9-503. *Name of debtor and secured party.*

(a) Sufficiency of debtor's name. -- A financing statement sufficiently provides the name of the debtor:
(1) If the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized;
(2) If the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;
(3) If the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:
a. Provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and
b. Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and
(4) In other cases:
a. If the debtor has a name, only if it provides the individual or organizational name of the debtor; and
b. If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

(b) Additional debtor-related information. -- A financing statement that provides the name of the debtor in accordance with subsection (a) of this section is not rendered ineffective by the absence of:
(1) A trade name or other name of the debtor; or
(2) Unless required under sub-subdivision (a)(4)b. of this section, names of partners, members, associates, or other persons comprising the debtor.

(c) Debtor's trade name insufficient. -- A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(d) Representative capacity. -- Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(e) Multiple debtors and secured parties. -- A financing statement may provide the name of more than one debtor and the name of more than one secured party.

"§ 25-9-504. Indication of collateral.

A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

(1) A description of the collateral pursuant to G.S. 25-9-108; or

(2) An indication that the financing statement covers all assets or all personal property.

"§ 25-9-505. Filing and compliance with other statutes and treaties for consignments, leases, other bailments, and other transactions.

(a) Use of terms other than 'debtor' and 'secured party.' -- A consignor, lessor, or other bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in G.S. 25-9-311(a), using the terms 'consignor', 'consignee', 'lessor', 'lessee', 'bailor', 'bailee', 'licensor', 'licensee', 'owner', 'registered owner', 'buyer', 'seller', or words of similar import, instead of the terms 'secured party' and 'debtor'.

(b) Effect of financing statement under subsection (a). -- This Part applies to the filing of a financing statement under subsection (a) of this section and, as appropriate, to compliance that is equivalent to filing a financing statement under G.S. 25-9-311(b), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

"§ 25-9-506. Effect of errors or omissions.

(a) Minor errors and omissions. -- A financing statement substantially satisfying the requirements of this Part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(b) Financing statement seriously misleading. -- Except as otherwise provided in subsection (c) of this section, a financing statement that fails sufficiently to provide the name of the debtor in accordance with G.S. 25-9-503(a) is seriously misleading.

(c) Financing statement not seriously misleading. -- If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with G.S. 25-9-503(a), the name provided does not make the financing statement seriously misleading.

(d) 'Debtor's correct name.' -- For purposes of G.S. 25-9-508(b), the 'debtor's correct name' in subsection (c) of this section means the correct name of the new debtor.

"§ 25-9-507. Effect of certain events on effectiveness of financing statement.

(a) Disposition. -- A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(b) Information becoming seriously misleading. -- Except as otherwise provided in subsection (c) of this section and G.S. 25-9-508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under G.S. 25-9-506.

(c) Change in debtor's name. -- If a debtor so changes its name that a filed financing statement becomes seriously misleading under G.S. 25-9-506:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the change; and

(2) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months after the change.

"§ 25-9-508. Effectiveness of financing statement if new debtor becomes bound by security agreement.

(a) Financing statement naming original debtor. -- Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(b) Financing statement becoming seriously misleading. -- If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (a) of this section to be seriously misleading under G.S. 25-9-506:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under G.S. 25-9-203(d); and

(2) The financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than four months after the new debtor becomes bound under G.S. 25-9-203(d) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(c) When section not applicable. -- This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under G.S. 25-9-507(a).

"§ 25-9-509. *Persons entitled to file a record.*

(a) Person entitled to file record. -- A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) The debtor authorizes the filing in an authenticated record or pursuant to subsection (b) or (c) of this section; or

(2) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(b) Security agreement as authorization. -- By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) The collateral described in the security agreement; and

(2) Property that becomes collateral under G.S. 25-9-315(a)(2), whether or not the security agreement expressly covers proceeds.

(c) Acquisition of collateral as authorization. -- By acquiring collateral in which a security interest or agricultural lien continues under G.S. 25-9-315(a)(1), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under G.S. 25-9-315(a)(2).

(d) Person entitled to file certain amendments. -- A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) The secured party of record authorizes the filing; or

(2) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by G.S. 25-9-513(a) or (c), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(e) Multiple secured parties of record. -- If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (d) of this section.

"§ 25-9-510. *Effectiveness of filed record.*

(a) Filed record effective if authorized. -- A filed record is effective only to the extent that it was filed by a person that may file it under G.S. 25-9-509.

(b) Authorization by one secured party of record. -- A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(c) Continuation statement not timely filed. -- A continuation statement that is not filed within the six-month period prescribed by G.S. 25-9-515(d) is ineffective.

"*§ 25-9-511. Secured party of record.*

(a) Secured party of record. -- A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under G.S. 25-9-514(a), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(b) Amendment naming secured party of record. -- If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under G.S. 25-9-514(b), the assignee named in the amendment is a secured party of record.

(c) Amendment deleting secured party of record. -- A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

"*§ 25-9-512. Amendment of financing statement.*

(a) Amendment of information in financing statement. -- Subject to G.S. 25-9-509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (e) of this section, otherwise amend the information provided in, a financing statement by filing an amendment that:

(1) Identifies, by its file number, the initial financing statement to which the amendment relates; and

(2) If the amendment relates to an initial financing statement filed in a filing office described in G.S. 25-9-501(a)(1), provides the name of the debtor and the information specified in G.S. 25-9-502(b).

(b) Period of effectiveness not affected. -- Except as otherwise provided in G.S. 25-9-515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(c) Effectiveness of amendment adding collateral. -- A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(d) Effectiveness of amendment adding debtor. -- A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(e) Certain amendments ineffective. -- An amendment is ineffective to the extent it:

(1) Purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(2) Purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

"*§ 25-9-513. Termination statement.*

(a) Consumer goods. -- A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(1) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) The debtor did not authorize the filing of the initial financing statement.

(b) Time for compliance with subsection (a). -- To comply with subsection (a) of this section, a secured party shall cause the secured party of record to file the termination statement:

(1) Within one month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) If earlier, within 20 days after the secured party receives an authenticated demand from a debtor.

(c) Other collateral. -- In cases not governed by subsection (a) of this section, within 20 days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(1) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(2) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(3) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(4) The debtor did not authorize the filing of the initial financing statement.

(d) Effect of filing termination statement. -- Except as otherwise provided in G.S. 25-9-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in G.S. 25-9-510, for purposes of G.S. 25-9-519(g), 25-9-522(a), and 25-9-523(c), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

"*§ 25-9-514. Assignment of powers of secured party of record.*

(a) Assignment reflected on initial financing statement. -- Except as otherwise provided in subsection (c) of this section, an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(b) Assignment of filed financing statement. -- Except as otherwise provided in subsection (c) of this section, a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

(1) Identifies, by its file number, the initial financing statement to which it relates;

(2) Provides the name of the assignor; and

(3) Provides the name and mailing address of the assignee.

(c) Assignment of record of mortgage. -- An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under G.S. 25-9-502(c) may be made only by an assignment of record of the mortgage in the manner provided by law of this State other than this Chapter.

"*§ 25-9-515. Duration and effectiveness of financing statement; effect of lapsed financing statement.*

(a) Five-year effectiveness. -- Except as otherwise provided in subsections (b), (e), (f), and (g) of this section, a filed financing statement is effective for a period of five years after the date of filing.

(b) Public-finance or manufactured-home transaction. -- Except as otherwise provided in subsections (e), (f), and (g) of this section, an initial financing statement filed in connection with a public-finance transaction or manufactured-home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a public-finance transaction or manufactured-home transaction.

(c) Lapse and continuation of financing statement. -- The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (d) of this section. Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(d) When continuation statement may be filed. -- A continuation statement may be filed only within six months before the expiration of the five-year period specified in subsection (a) of this section or the 30-year period specified in subsection (b) of this section, whichever is applicable.

(e) Effect of filing continuation statement. -- Except as otherwise provided in G.S. 25-9-510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five-year period, the financing statement lapses in the same manner as provided in subsection (c) of this section, unless, before the lapse, another continuation statement is filed pursuant to subsection (d) of this section. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(f) Transmitting utility financing statement. -- If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

(g) Record of mortgage as financing statement. -- A record of a mortgage that is effective as a financing statement filed as a fixture filing under G.S. 25-9-502(c) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

"*§ 25-9-516. What constitutes filing; effectiveness of filing.*

(a) What constitutes filing. -- Except as otherwise provided in subsection (b) of this section, communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Refusal to accept record; filing does not occur. -- Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) The record is not communicated by a method or medium of communication authorized by the filing office;

(2) An amount equal to or greater than the applicable filing fee is not tendered;

(3) The filing office is unable to index the record because:

a. In the case of an initial financing statement, the record does not provide a name for the debtor;

b. In the case of an amendment or correction statement, the record:

1. Does not identify the initial financing statement as required by G.S. 25-9-512 or G.S. 25-9-518, as applicable; or

2. Identifies an initial financing statement whose effectiveness has lapsed under G.S. 25-9-515;

c. In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

d. In the case of a record filed in the filing office described in G.S. 25-9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

(4) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

a. Provide a mailing address for the debtor;

b. Indicate whether the debtor is an individual or an organization; or

c. If the financing statement indicates that the debtor is an organization, provide:

1. A type of organization for the debtor;

2. A jurisdiction of organization for the debtor; or

3. An organizational identification number for the debtor or indicate that the debtor has none;

(6) In the case of an assignment reflected in an initial financing statement under G.S. 25-9-514(a) or an amendment filed under G.S. 25-9-514(b), the record does not provide a name and mailing address for the assignee; or

(7) In the case of a continuation statement, the record is not filed within the six-month period prescribed by G.S. 25-9-515(d).

(c) Rules applicable to subsection (b). -- For purposes of subsection (b) of this section:

(1) A record does not provide information if the filing office is unable to read or decipher the information; and

(2) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by G.S. 25-9-512, 25-9-514, or 25-9-518, is an initial financing statement.

(d) Refusal to accept record; record effective as filed record. -- A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b) of this section, is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

"§ 25-9-517. *Effect of indexing errors.*

The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

"§ 25-9-518. *Claim concerning inaccurate or wrongfully filed record.*

(a) Correction statement. -- A person may file in the filing office a correction statement with respect to a record indexed there under the

person's name if the person believes that the record is inaccurate or was wrongfully filed.

(b) Sufficiency of correction statement. -- A correction statement must:

(1) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(2) Indicate that it is a correction statement; and

(3) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(c) Record not affected by correction statement. -- The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

"SUBPART 2. DUTIES AND OPERATION OF FILING OFFICE.

"§ *25-9-519. Numbering, maintaining, and indexing records; communicating information provided in records.*

(a) Filing office duties. -- For each record filed in a filing office, the filing office shall:

(1) Assign a unique number to the filed record;

(2) Create a record that bears the number assigned to the filed record and the date and time of filing;

(3) Maintain the filed record for public inspection; and

(4) Index the filed record in accordance with subsections (c), (d), and (e) of this section.

(b) File number. -- Except as otherwise provided in subsection (i) of this section, a file number assigned after January 1, 2003, must include a digit that:

(1) Is mathematically derived from or related to the other digits of the file number; and

(2) Aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.

(c) Indexing: general. -- Except as otherwise provided in subsections (d) and (e) of this section, the filing office shall:

(1) Index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

(2) Index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(d) Indexing: real-property-related financing statement. -- If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index it:

(1) Under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(2) To the extent that the law of this State provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(e) Indexing: real-property-related assignment. -- If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under G.S. 25-9-514(a) or an amendment filed under G.S. 25-9-514(b):

(1) Under the name of the assignor as grantor; and

(2) To the extent that the law of this State provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

(f) Retrieval and association capability. -- The filing office shall maintain a capability:

(1) To retrieve a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(2) To associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

(g) Removal of debtor's name. -- The filing office may not remove a debtor's name from the index until one year after the effectiveness of a financing statement naming the debtor lapses under G.S. 25-9-515 with respect to all secured parties of record.

(h) Timeliness of filing office performance. -- The filing office shall perform the acts required by subsections (a) through (e) of this section at the time and in the manner prescribed by filing-office rule, but after January 1, 2003, not later than three business days after the filing office receives the record in question.

(i) Inapplicability to real-property-related filing office. -- Subsection (b) of this section does not apply to a filing office described in G.S. 25-9-501(a)(1).

"*§ 25-9-520. Acceptance and refusal to accept record.*

(a) Mandatory refusal to accept record. -- A filing office shall refuse to accept a record for filing for a reason set forth in G.S. 25-9-516(b) and may refuse to accept a record for filing only for a reason set forth in G.S. 25-9-516(b).

(b) Communication concerning refusal. -- If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the

manner prescribed by filing-office rule but in no event more than three business days after the filing office receives the record.

(c) When filed financing statement effective. -- A filed financing statement satisfying G.S. 25-9-502(a) and (b) is effective, even if the filing office is required to refuse to accept it for filing under subsection (a) of this section. However, G.S. 25-9-338 applies to a filed financing statement providing information described in G.S. 25-9-516(b)(5) which is incorrect at the time the financing statement is filed.

(d) Separate application to multiple debtors. -- If a record communicated to a filing office provides information that relates to more than one debtor, this Part applies as to each debtor separately.

"§ *25-9-521.* Reserved.

"§ *25-9-522. Maintenance and destruction of records.*

(a) Post-lapse maintenance and retrieval of information. -- The filing office shall maintain a record of the information provided in a filed financing statement for at least one year after the effectiveness of the financing statement has lapsed under G.S. 25-9-515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number assigned to the initial financing statement to which the record relates.

(b) Destruction of written records. -- Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (a) of this section.

"§ *25-9-523. Information from filing office.*

(a) Acknowledgment of filing written record. -- If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to G.S. 25-9-519(a)(1) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

(1) Note upon the copy the number assigned to the record pursuant to G.S. 25-9-519(a)(1) and the date and time of the filing of the record; and

(2) Send the copy to the person.

(b) Acknowledgment of filing other record. -- If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

(1) The information in the record;

(2) The number assigned to the record pursuant to G.S. 25-9-519(a)(1); and

(3) The date and time of the filing of the record.

(c) Communication of requested information. -- Except as otherwise provided in subsection (g) of this section, the filing office shall communicate or otherwise make available in a record, for which

it shall not be liable, the following information to any person that requests it:

(1) Whether there is on file on a date and time specified by the filing office, but not a date earlier than three business days before the filing office receives the request, any financing statement that:

a. Designates a particular debtor;

b. Has not lapsed under G.S. 25-9-515 with respect to all secured parties of record; and

c. If the request so states, has lapsed under G.S. 25-9-515 and a record of which is maintained by the filing office under G.S. 25-9-522(a);

(2) The date and time of filing of each financing statement; and

(3) The information provided in each financing statement.

(d) Medium for communicating information. -- In complying with its duty under subsection (c) of this section, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing a record that can be admitted into evidence in the courts of this State without extrinsic evidence of its authenticity.

(e) Timeliness of filing office performance. -- The filing office shall perform the acts required by subsections (a) through (d) of this section at the time and in the manner prescribed by filing-office rule, but after January 1, 2003, for a filing office described in G.S. 25-9-501(a)(2), not later than three business days after the filing office receives the request.

(f) Reserved.

(g) Inapplicability to real-property-related filing office. -- Subsection (c) of this section does not apply to a filing office described in G.S. 25-9-501(a)(1) with respect to financing statements filed on or after the effective date of this act.

"§ *25-9-524. Delay by filing office.*

Delay by the filing office beyond a time limit prescribed by this Part is excused if:

(1) The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

(2) The filing office exercises reasonable diligence under the circumstances.

"§ *25-9-525. Fees.*

(a) Initial financing statement or other record: general rule. -- Except as otherwise provided in subsection (e) of this section, the fee for filing and indexing a record under this Part is:

(1) Thirty dollars ($30.00) if the record is communicated in writing and consists of one or two pages;

(2) Forty-five dollars ($45.00) if the record is communicated in writing and consists of more than two pages, plus two dollars ($2.00) for each page over 10 pages; and

(3) Thirty dollars ($30.00) if the record is communicated by another medium authorized by filing-office rule.

(b) Reserved.

(c) Number of names. -- The number of names required to be indexed does not affect the amount of the fee in subsection (a) of this section.

(d) Response to information request. -- The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is:

(1) Thirty dollars ($30.00) if the request is communicated in writing; and

(2) Thirty dollars ($30.00) if the request is communicated by another medium authorized by filing-office rule.

Upon request the filing office shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of two dollars ($2.00) per page. This subsection does not require that a fee be charged for remote access searching of the filing office database.

(e) Record of mortgage. -- This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under G.S. 25-9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

"*§ 25-9-526. Filing-office rules.*

(a) Adoption of filing-office rules. -- The Secretary of State shall adopt and publish rules to implement the Secretary of State's responsibilities under this Part. The filing-office rules must be consistent with this Article.

(b) Harmonization of rules. -- To keep the filing-office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this Part, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this Part, the Secretary of State, so far as is consistent with the purposes, policies, and provisions of this Article, in adopting, amending, and repealing filing-office rules, may:

(1) Consult with filing offices in other jurisdictions that enact substantially this Part;

(2) Consult the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators or any successor organization; and

(3) Take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this Part.

"PART 6.

"DEFAULT.

"SUBPART 1. DEFAULT AND ENFORCEMENT OF SECURITY

INTEREST.

"§ 25-9-601. Rights after default; judicial enforcement; consignor or buyer of accounts, chattel paper, payment intangibles, or promissory notes.

(a) Rights of secured party after default. -- After default, a secured party has the rights provided in this Part and, except as otherwise provided in G.S. 25-9-602, those provided by agreement of the parties. A secured party:

(1) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(2) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) Rights and duties of secured party in possession or control. -- A secured party in possession of collateral or control of collateral under G.S. 25-9-104, 25-9-105, 25-9-106, or 25-9-107 has the rights and duties provided in G.S. 25-9-207.

(c) Rights cumulative; simultaneous exercise. -- The rights under subsections (a) and (b) of this section are cumulative and may be exercised simultaneously.

(d) Rights of debtor and obligor. -- Except as otherwise provided in subsection (g) of this section and G.S. 25-9-605, after default, a debtor and an obligor have the rights provided in this Part and by agreement of the parties.

(e) Lien of levy after judgment. -- If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(1) The date of perfection of the security interest or agricultural lien in the collateral;

(2) The date of filing a financing statement covering the collateral; or

(3) Any date specified in a statute under which the agricultural lien was created.

(f) Execution sale. -- A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this Article.

(g) Consignor or buyer of certain rights to payment. -- Except as otherwise provided in G.S. 25-9-607(c), this Part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

"§ 25-9-602. Waiver and variance of rights and duties.

Except as otherwise provided in G.S. 25-9-624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

(1) G.S. 25-9-207(b)(4)c., which deals with use and operation of the collateral by the secured party;
(2) G.S. 25-9-210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;
(3) G.S. 25-9-607(c), which deals with collection and enforcement of collateral;
(4) G.S. 25-9-608(a) and G.S. 25-9-615(c) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;
(5) G.S. 25-9-608(a) and G.S. 25-9-615(d) to the extent that they require accounting for or payment of surplus proceeds of collateral;
(6) G.S. 25-9-609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;
(7) G.S. 25-9-610(b), 25-9-611, 25-9-613, and 25-9-614, which deal with disposition of collateral;
(8) G.S. 25-9-615(f), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor;
(9) G.S. 25-9-616, which deals with explanation of the calculation of a surplus or deficiency;
(10) G.S. 25-9-620, 25-9-621, and 25-9-622, which deal with acceptance of collateral in satisfaction of obligation;
(11) G.S. 25-9-623, which deals with redemption of collateral;
(12) G.S. 25-9-624, which deals with permissible waivers; and
(13) G.S. 25-9-625 and G.S. 25-9-626, which deal with the secured party's liability for failure to comply with this Article.

"*§ 25-9-603. Agreement on standards concerning rights and duties.*

(a) Agreed standards. -- The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in G.S. 25-9-602 if the standards are not manifestly unreasonable.

(b) Agreed standards inapplicable to breach of peace. -- Subsection (a) of this section does not apply to the duty under G.S. 25-9-609 to refrain from breaching the peace.

"*§ 25-9-604. Procedure if security agreement covers real property or fixtures.*

(a) Enforcement: personal and real property. -- If a security agreement covers both personal and real property, a secured party may proceed:

(1) Under this Part as to the personal property without prejudicing any rights with respect to the real property; or
(2) As to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this Part do not apply.

(b) Enforcement: fixtures. -- Subject to subsection (c) of this section, if a security agreement covers goods that are or become fixtures, a secured party may proceed:

(1) Under this Part; or

(2) In accordance with the rights with respect to real property, in which case the other provisions of this Part do not apply.

(c) Removal of fixtures. -- Subject to the other provisions of this Part, if a secured party holding a security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property.

(d) Injury caused by removal. -- A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

"*§ 25-9-605. Unknown debtor or secondary obligor.*

A secured party does not owe a duty based on its status as secured party:

(1) To a person that is a debtor or obligor, unless the secured party knows:

a. That the person is a debtor or obligor;

b. The identity of the person; and

c. How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

a. That the person is a debtor; and

b. The identity of the person.

"*§ 25-9-606. Time of default for agricultural lien.*

For purposes of this Part, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

"*25-9-607. Collection and enforcement by secured party.*

(a) Collection and enforcement generally. -- If so agreed, and in any event after default, a secured party:

(1) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(2) May take any proceeds to which the secured party is entitled under G.S. 25-9-315;

(3) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or

otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(4) If it holds a security interest in a deposit account perfected by control under G.S. 25-9-104(a)(1), may apply the balance of the deposit account to the obligation secured by the deposit account; and

(5) If it holds a security interest in a deposit account perfected by control under G.S. 25-9-104(a)(2) or (a)(3), may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(b) Nonjudicial enforcement of mortgage. -- If necessary to enable a secured party to exercise under subdivision (a)(3) of this section the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(1) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(2) The secured party's sworn affidavit in recordable form stating that:

a. A default has occurred; and

b. The secured party is entitled to enforce the mortgage nonjudicially.

(c) Commercially reasonable collection and enforcement. -- A secured party shall proceed in a commercially reasonable manner if the secured party:

(1) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(2) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(d) Expenses of collection and enforcement. -- A secured party may deduct from the collections made pursuant to subsection (c) of this section reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(e) Duties to secured party not affected. -- This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

"*§ 25-9-608. Application of proceeds of collection or enforcement; liability for deficiency and right to surplus.*

(a) Application of proceeds, surplus, and deficiency if obligation secured. -- If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under G.S. 25-9-607 in the following order to:

a. The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

b. The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

c. The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under sub-subdivision (a)(1)c. of this section.

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under G.S. 25-9-607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(b) No surplus or deficiency in sales of certain rights to payment. -- If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

"*§ 25-9-609. Secured party's right to take possession after default.*

(a) Possession; rendering equipment unusable; disposition on debtor's premises. -- After default, a secured party:

(1) May take possession of the collateral; and

(2) Without removal, may render equipment unusable and dispose of collateral on a debtor's premises under G.S. 25-9-610.

(b) Judicial and nonjudicial process. -- A secured party may proceed under subsection (a) of this section:

(1) Pursuant to judicial process; or

(2) Without judicial process, if it proceeds without breach of the peace.

(c) Assembly of collateral. -- If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

"*§ 25-9-610. Disposition of collateral after default.*

(a) Disposition after default. -- After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(b) Commercially reasonable disposition. -- Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(c) Purchase by secured party. -- A secured party may purchase collateral:

(1) At a public disposition; or

(2) At a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(d) Warranties on disposition. -- A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(e) Disclaimer of warranties. -- A secured party may disclaim or modify warranties under subsection (d) of this section:

(1) In a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(2) By communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(f) Record sufficient to disclaim warranties. -- A record is sufficient to disclaim warranties under subsection (e) of this section if it indicates 'There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition' or uses words of similar import.

"*§ 25-9-611. Notification before disposition of collateral.*

(a) 'Notification date.' -- In this section, 'notification date' means the earlier of the date on which:

(1) A secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(2) The debtor and any secondary obligor waive the right to notification.

(b) Notification of disposition required. -- Except as otherwise provided in subsection (d) of this section, a secured party that disposes of collateral under G.S. 25-9-610 shall send to the persons specified in subsection (c) of this section a reasonable authenticated notification of disposition.

(c) Persons to be notified. -- To comply with subsection (b) of this section, the secured party shall send an authenticated notification of disposition to:

(1) The debtor;
(2) Any secondary obligor; and
(3) If the collateral is other than consumer goods:
a. Any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;
b. Any other secured party or lienholder that, 10 days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:
1. Identified the collateral;
2. Was indexed under the debtor's name as of that date; and
3. Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and
c. Any other secured party that, 10 days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in G.S. 25-9-311(a).

(d) Subsection (b) inapplicable: perishable collateral; recognized market. -- Subsection (b) of this section does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(e) Compliance with sub-subdivision (c)(3)b. -- A secured party complies with the requirement for notification prescribed by sub-subdivision (c)(3)b. of this section if:

(1) Not later than 20 days or earlier than 30 days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in sub-subdivision (c)(3)b. of this section; and
(2) Before the notification date, the secured party:
a. Did not receive a response to the request for information; or
b. Received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

"§ 25-9-612. *Timeliness of notification before disposition of collateral.*

(a) Reasonable time is question of fact. -- Except as otherwise provided in subsection (b) of this section, whether a notification is sent within a reasonable time is a question of fact.

(b) Ten-day period sufficient in nonconsumer transaction. -- In a transaction other than a consumer transaction, a notification of disposition sent after default and 10 days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

"§ 25-9-613. *Contents and form of notification before disposition of collateral: general.*

Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:
   a. Describes the debtor and the secured party;
   b. Describes the collateral that is the subject of the intended disposition;
   c. States the method of intended disposition;
   d. States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and
   e. States the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in subdivision (1) of this section are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in subdivision (1) of this section are sufficient, even if the notification includes:
   a. Information not specified by that subdivision; or
   b. Minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in G.S. 25-9-614(3), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: [Name of debtor, obligor, or other person to which the notification is sent]

From: [Name, address, and telephone number of secured party]

Name of Debtor(s): [Include only if debtor(s) is/are not an addressee]

[For a public disposition:]

We will sell [or lease or license, as applicable] the [describe collateral] [to the highest qualified bidder] in public as follows:

Day and Date: _____

Time: _____

Place: _____

[For a private disposition:]

We will sell [or lease or license, as applicable] the [describe collateral] privately sometime after [day and date].

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell [or lease or license, as applicable] [for a charge of $]. You may request an accounting by calling us at [telephone number]

"§ 25-9-614. *Contents and form of notification before disposition of collateral: consumer-goods transaction.*

In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:
   a. The information specified in G.S. 25-9-613(1);
   b. A description of any liability for a deficiency of the person to which the notification is sent;
   c. A telephone number from which the amount that must be paid to the secured party to redeem the collateral under G.S. 25-9-623 is available; and
   d. A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed, provides sufficient information:

[Name and address of secured party]
[Date]

NOTICE OF OUR PLAN TO SELL PROPERTY

[Name and address of any obligor who is also a debtor]
Subject: [Identification of Transaction]

We have your [describe collateral], because you broke promises in our agreement.

[For a public disposition:]
We will sell [describe collateral] at public sale. A sale could include a lease or license. The sale will be held as follows:

Date: _____
Time: _____
Place: _____
You may attend the sale and bring bidders if you want.

[For a private disposition:]
We will sell [describe collateral] at private sale sometime after [date]. A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you [will or will not, as applicable] still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at [telephone number].

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at [telephone number] or write us at [secured party's address] and request a written explanation. [We will charge you $ for the explanation if we sent you another written explanation of the amount you owe us within the last six months.]

If you need more information about the sale call us at [telephone number] [or write us at [secured party's address]].

We are sending this notice to the following other people who have an interest in [describe collateral] or who owe money under your agreement:

[Names of all other debtors and obligors, if any]

(4) A notification in the form of subdivision (3) of this section is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of subdivision (3) of this section is sufficient, even if it includes errors in information not required by subdivision (1) of this section, unless the error is misleading with respect to rights arising under this Article.

(6) If a notification under this section is not in the form of subdivision (3) of this section, law other than this Article determines the effect of including information not required by subdivision (1) of this section.

"§ 25-9-615. *Application of proceeds of disposition; liability for deficiency and right to surplus.*

(a) Application of proceeds. -- A secured party shall apply or pay over for application the cash proceeds of disposition under G.S. 25-9-610 in the following order to:

(1) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(2) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(3) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

a. The secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

b. In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(4) A secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) Proof of subordinate interest. -- If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subdivision (a)(3) of this section.

(c) Application of noncash proceeds. -- A secured party need not apply or pay over for application noncash proceeds of disposition under G.S. 25-9-610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) Surplus or deficiency if obligation secured. -- If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (a) of this section and permitted by subsection (c) of this section:

(1) Unless subdivision (a)(4) of this section requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(2) The obligor is liable for any deficiency.

(e) No surplus or deficiency in sales of certain rights to payment. -- If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(1) The debtor is not entitled to any surplus; and

(2) The obligor is not liable for any deficiency.

(f) Calculation of surplus or deficiency in disposition to person related to secured party. -- The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this Part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(1) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(2) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(g) Cash proceeds received by junior secured party. -- A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a

security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(1) Takes the cash proceeds free of the security interest or other lien;

(2) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(3) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

"*§ 25-9-616. Explanation of calculation of surplus or deficiency.*

(a) Definitions. -- In this section:

(1) 'Explanation' means a writing that:

a. States the amount of the surplus or deficiency;

b. Provides an explanation in accordance with subsection (c) of this section of how the secured party calculated the surplus or deficiency;

c. States, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

d. Provides a telephone number or mailing address from which additional information concerning the transaction is available.

(2) 'Request' means a record:

a. Authenticated by a debtor or consumer obligor;

b. Requesting that the recipient provide an explanation; and

c. Sent after disposition of the collateral under G.S. 25-9-610.

(b) Explanation of calculation. -- In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under G.S. 25-9-615, the secured party shall:

(1) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

a. Before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and

b. Within 14 days after receipt of a request; or

(2) In the case of a consumer obligor who is liable for a deficiency, within 14 days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(c) Required information. -- To comply with sub-subdivision (a)(1)b. of this section, a writing must provide the following information in the following order:

(1) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit

service charge, an indication of that fact, calculated as of a specified date:

a. If the secured party takes or receives possession of the collateral after default, not more than 35 days before the secured party takes or receives possession; or

b. If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than 35 days before the disposition;

(2) The amount of proceeds of the disposition;

(3) The aggregate amount of the obligations after deducting the amount of proceeds;

(4) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(5) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in subdivision (1) of this subsection; and

(6) The amount of the surplus or deficiency.

(d) Substantial compliance. -- A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (a) of this section is sufficient, even if it includes minor errors that are not seriously misleading.

(e) Charges for responses. -- A debtor or consumer obligor is entitled without charge to one response to a request under this section during any six-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subdivision (b)(1) of this section. The secured party may require payment of a charge not exceeding twenty-five dollars ($25.00) for each additional response.

"*§ 25-9-617. Rights of transferee of collateral.*

(a) Effects of disposition. -- A secured party's disposition of collateral after default:

(1) Transfers to a transferee for value all of the debtor's rights in the collateral;

(2) Discharges the security interest under which the disposition is made; and

(3) Discharges any subordinate security interest or other subordinate lien.

(b) Rights of good-faith transferee. -- A transferee that acts in good faith takes free of the rights and interests described in subsection (a) of this section, even if the secured party fails to comply with this Article or the requirements of any judicial proceeding.

(c) Rights of other transferee. -- If a transferee does not take free of the rights and interests described in subsection (a) of this section, the transferee takes the collateral subject to:

(1) The debtor's rights in the collateral;

(2) The security interest or agricultural lien under which the disposition is made; and

(3) Any other security interest or other lien.

"*§ 25-9-618. Rights and duties of certain secondary obligors.*

(a) Rights and duties of secondary obligor. -- A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

(1) Receives an assignment of a secured obligation from the secured party;

(2) Receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or

(3) Is subrogated to the rights of a secured party with respect to collateral.

(b) Effect of assignment, transfer, or subrogation. -- An assignment, transfer, or subrogation described in subsection (a) of this section:

(1) Is not a disposition of collateral under G.S. 25-9-610; and

(2) Relieves the secured party of further duties under this Article.

"*§ 25-9-619. Transfer of record or legal title.*

(a) 'Transfer statement.' -- In this section, 'transfer statement' means a record authenticated by a secured party stating:

(1) That the debtor has defaulted in connection with an obligation secured by specified collateral;

(2) That the secured party has exercised its postdefault remedies with respect to the collateral;

(3) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(4) The name and mailing address of the secured party, debtor, and transferee.

(b) Effect of transfer statement. -- A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(1) Accept the transfer statement;

(2) Promptly amend its records to reflect the transfer; and

(3) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(c) Transfer not a disposition; no relief of secured party's duties. -- A transfer of the record or legal title to collateral to a secured party under subsection (b) of this section or otherwise is not of itself a

disposition of collateral under this Article and does not of itself relieve the secured party of its duties under this Article.

"*§ 25-9-620. Acceptance of collateral in full or partial satisfaction of obligation; compulsory disposition of collateral.*

(a) Conditions to acceptance in satisfaction. -- Except as otherwise provided in subsection (g) of this section, a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(1) The debtor consents to the acceptance under subsection (c) of this section;

(2) The secured party does not receive, within the time set forth in subsection (d) of this section, a notification of objection to the proposal authenticated by:

a. A person to which the secured party was required to send a proposal under G.S. 25-9-621; or

b. Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(3) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(4) Subsection (e) of this section does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to G.S. 25-9-624.

(b) Purported acceptance ineffective. -- A purported or apparent acceptance of collateral under this section is ineffective unless:

(1) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(2) The conditions of subsection (a) of this section are met.

(c) Debtor's consent. -- For purposes of this section:

(1) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(2) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

a. Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

b. In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

c. Does not receive a notification of objection authenticated by the debtor within 20 days after the proposal is sent.

(d) Effectiveness of notification. -- To be effective under subdivision (a)(2) of this section, a notification of objection must be received by the secured party:

(1) In the case of a person to which the proposal was sent pursuant to G.S. 25-9-621, within 20 days after notification was sent to that person; and

(2) In other cases:

a. Within 20 days after the last notification was sent pursuant to G.S. 25-9-621; or

b. If a notification was not sent, before the debtor consents to the acceptance under subsection (c) of this section.

(e) Mandatory disposition of consumer goods. -- A secured party that has taken possession of collateral shall dispose of the collateral pursuant to G.S. 25-9-610 within the time specified in subsection (f) of this section if:

(1) Sixty percent (60%) of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(2) Sixty percent (60%) of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(f) Compliance with mandatory disposition requirement. -- To comply with subsection (e) of this section, the secured party shall dispose of the collateral:

(1) Within 90 days after taking possession; or

(2) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(g) No partial satisfaction in consumer transaction. -- In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

"*§ 25-9-621. Notification of proposal to accept collateral.*

(a) Persons to which proposal to be sent. -- A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(1) Any person from which the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

(2) Any other secured party or lienholder that, 10 days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

a. Identified the collateral;

b. Was indexed under the debtor's name as of that date; and

c. Was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(3) Any other secured party that, 10 days before the debtor consented to the acceptance, held a security interest in the

collateral perfected by compliance with a statute, regulation, or treaty described in G.S. 25-9-311(a).

(b) Proposal to be sent to secondary obligor in partial satisfaction. -- A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (a) of this section.

"§ 25-9-622. *Effect of acceptance of collateral.*

(a) Effect of acceptance. -- A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

(1) Discharges the obligation to the extent consented to by the debtor;

(2) Transfers to the secured party all of a debtor's rights in the collateral;

(3) Discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

(4) Terminates any other subordinate interest.

(b) Discharge of subordinate interest notwithstanding noncompliance. -- A subordinate interest is discharged or terminated under subsection (a) of this section, even if the secured party fails to comply with this Article.

"§ 25-9-623. *Right to redeem collateral.*

(a) Persons that may redeem. -- A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(b) Requirements for redemption. -- To redeem collateral, a person shall tender:

(1) Fulfillment of all obligations secured by the collateral; and

(2) The reasonable expenses and attorney's fees described in G.S. 25-9-615(a)(1).

(c) When redemption may occur. -- A redemption may occur at any time before a secured party:

(1) Has collected collateral under G.S. 25-9-607;

(2) Has disposed of collateral or entered into a contract for its disposition under G.S. 25-9-610; or

(3) Has accepted collateral in full or partial satisfaction of the obligation it secures under G.S. 25-9-622.

"§ 25-9-624. *Waiver.*

(a) Waiver of disposition notification. -- A debtor or secondary obligor may waive the right to notification of disposition of collateral under G.S. 25-9-611 only by an agreement to that effect entered into and authenticated after default.

(b) Waiver of mandatory disposition. -- A debtor may waive the right to require disposition of collateral under G.S. 25-9-620(e) only by an agreement to that effect entered into and authenticated after default.

(c) Waiver of redemption right. -- Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to

redeem collateral under G.S. 25-9-623 only by an agreement to that effect entered into and authenticated after default.

"SUBPART 2. NONCOMPLIANCE WITH ARTICLE.

"§ 25-9-625. *Remedies for secured party's failure to comply with Article.*

(a) Judicial orders concerning noncompliance. -- If it is established that a secured party is not proceeding in accordance with this Article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(b) Damages for noncompliance. -- Subject to subsections (c), (d), and (f) of this section, a person is liable for damages in the amount of any loss caused by a failure to comply with this Article. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c) Persons entitled to recover damages; statutory damages in consumer-goods transaction. -- Except as otherwise provided in G.S. 25-9-628:

(1) A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (b) of this section for its loss; and

(2) If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this Part may recover for that failure in any event an amount not less than the credit service charge plus ten percent (10%) of the principal amount of the obligation or the time-price differential plus ten percent (10%) of the cash price.

(d) Recovery when deficiency eliminated or reduced. -- A debtor whose deficiency is eliminated under G.S. 25-9-626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under G.S. 25-9-626 may not otherwise recover under subsection (b) of this section for noncompliance with the provisions of this Part relating to collection, enforcement, disposition, or acceptance.

(e) Statutory damages: noncompliance with specified provisions. -- In addition to any damages recoverable under subsection (b) of this section, the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars ($500.00) in each case from a person that:

(1) Fails to comply with G.S. 25-9-208;

(2) Fails to comply with G.S. 25-9-209;

(3) Files a record that the person is not entitled to file under G.S. 25-9-509(a);

(4) Fails to cause the secured party of record to file or send a termination statement as required by G.S. 25-9-513(a) or (c);

(5) Fails to comply with G.S. 25-9-616(b)(1) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or

(6) Fails to comply with G.S. 25-9-616(b)(2).

(f) Statutory damages: noncompliance with G.S. 25-9-210. -- A debtor or consumer obligor may recover damages under subsection (b) of this section and, in addition, five hundred dollars ($500.00) in each case from a person that, without reasonable cause, fails to comply with a request under G.S. 25-9-210. A recipient of a request under G.S. 25-9-210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(g) Limitation of security interest: noncompliance with G.S. 25-9-210. -- If a secured party fails to comply with a request regarding a list of collateral or a statement of account under G.S. 25-9-210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

"*§ 25-9-626. Action in which deficiency or surplus is in issue.*

(a) Applicable rules if amount of deficiency or surplus in issue. -- In an action arising from a transaction, other than a consumer transaction, in which the amount of a deficiency or surplus is in issue, the following rules apply:

(1) A secured party need not prove compliance with the provisions of this Part relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(2) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this Part.

(3) Except as otherwise provided in G.S. 25-9-628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this Part relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorney's fees exceeds the greater of:

a. The proceeds of the collection, enforcement, disposition, or acceptance; or

b. The amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this Part relating to collection, enforcement, disposition, or acceptance.

(4) For purposes of sub-subdivision (a)(3)b. of this section, the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's

fees unless the secured party proves that the amount is less than that sum.

(5) If a deficiency or surplus is calculated under G.S. 25-9-615(f), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(b) Nonconsumer transactions; no inference. -- The limitation of the rules in subsection (a) of this section to transactions other than consumer transactions is intended to leave to the court the determination of the proper rules in consumer transactions. The court may not infer from that limitation the nature of the proper rule in consumer transactions and may continue to apply established approaches.

"§ 25-9-627. *Determination of whether conduct was commercially reasonable.*

(a) Greater amount obtainable under other circumstances; no preclusion of commercial reasonableness. -- The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(b) Dispositions that are commercially reasonable. -- A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

(1) In the usual manner on any recognized market;

(2) At the price current in any recognized market at the time of the disposition; or

(3) Otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(c) Approval by court or on behalf of creditors. -- A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

(1) In a judicial proceeding;

(2) By a bona fide creditors' committee;

(3) By a representative of creditors; or

(4) By an assignee for the benefit of creditors.

(d) Approval under subsection (c) of this section not necessary; absence of approval has no effect. -- Approval under subsection (c) of this section need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

"§ 25-9-628. *Nonliability and limitation on liability of secured party; liability of secondary obligor.*

(a) Limitation of liability of secured party for noncompliance with Article. -- Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(1) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this Article; and

(2) The secured party's failure to comply with this Article does not affect the liability of the person for a deficiency.

(b) Limitation of liability based on status as secured party. -- A secured party is not liable because of its status as secured party:

(1) To a person that is a debtor or obligor, unless the secured party knows:

a. That the person is a debtor or obligor;

b. The identity of the person; and

c. How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

a. That the person is a debtor; and

b. The identity of the person.

(c) Limitation of liability if reasonable belief that transaction not a consumer-goods transaction or consumer transaction. -- A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(1) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(2) An obligor's representation concerning the purpose for which a secured obligation was incurred.

(d) Limitation of liability for statutory damages. -- A secured party is not liable to any person under G.S. 25-9-625(c)(2) for its failure to comply with G.S. 25-9-616.

(e) Limitation of multiple liability for statutory damages. -- A secured party is not liable under G.S. 25-9-625(c)(2) more than once with respect to any one secured obligation.

"PART 7.

"TRANSITION.

"§ 25-9-701. Effective date.

This act takes effect on July 1, 2001. References in this Part to 'this act' refer to PARTS I, II, and III of the session law by which this Part is added to Article 9 of Chapter 25 of the General Statutes. References in this Part to 'former Article 9' are to Article 9 of Chapter 25 of the General Statutes as in effect immediately before the effective date of this act.

"§ 25-9-702. Savings clause.

(a) Pre-effective-date transactions or liens. -- Except as otherwise provided in this Part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before the effective date of this act.

(b) Continuing validity. -- Except as otherwise provided in subsection (c) of this section and G.S. 25-9-703 through G.S. 25-9-709:

(1) Transactions and liens that were not governed by former Article 9, were validly entered into or created before the effective date of this act, and would be subject to this act if they had been entered into or created after the effective date of this act, and the rights, duties, and interests flowing from those transactions and liens remain valid after the effective date of this act; and

(2) The transactions and liens described in subdivision (1) of this subsection may be terminated, completed, consummated, and enforced as required or permitted by this act or by the law that otherwise would apply if this act had not taken effect.

(c) Pre-effective-date proceedings. -- This act does not affect an action, case, or proceeding commenced before the effective date of this act.

"*§ 25-9-703. Security interest perfected before effective date.*

(a) Continuing priority over lien creditor: perfection requirements satisfied. -- A security interest that is enforceable immediately before the effective date of this act and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under this act if, on the effective date of this act, the applicable requirements for enforceability and perfection under this act are satisfied without further action.

(b) Continuing priority over lien creditor: perfection requirements not satisfied. -- Except as otherwise provided in G.S. 25-9-705, if, immediately before the effective date of this act, a security interest is enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under this act are not satisfied on the effective date of this act, the security interest:

(1) Is a perfected security interest for one year after the effective date of this act;

(2) Remains enforceable thereafter only if the security interest becomes enforceable under G.S. 25-9-203 before the year expires; and

(3) Remains perfected thereafter only if the applicable requirements for perfection under this act are satisfied before the year expires.

"*§ 25-9-704. Security interest unperfected before effective date.*

A security interest that is enforceable immediately before the effective date of this act but which would be subordinate to the rights of a person that becomes a lien creditor at that time:

(1) Remains an enforceable security interest for one year after the effective date of this act;

(2) Remains enforceable thereafter if the security interest becomes enforceable under G.S. 25-9-203 on the effective date of this act or within one year thereafter; and

(3) Becomes perfected:

a. Without further action, on the effective date of this act if the applicable requirements for perfection under this act are satisfied before or at that time; or

b. When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

"§ 25-9-705. *Effectiveness of action taken before effective date.*

(a) Pre-effective-date action; one-year perfection period unless reperfected. -- If action, other than the filing of a financing statement, is taken before the effective date of this act and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before the effective date of this act, the action is effective to perfect a security interest that attaches under this act within one year after the effective date of this act. An attached security interest becomes unperfected one year after the effective date of this act unless the security interest becomes a perfected security interest under this act before the expiration of that period.

(b) Pre-effective-date filing. -- The filing of a financing statement before the effective date of this act is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this act.

(c) Pre-effective-date filing in jurisdiction formerly governing perfection. -- This act does not render ineffective an effective financing statement that, before the effective date of this act, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in G.S. 25-9-103 of former Article 9. However, except as otherwise provided in subsections (d) and (e) of this section and G.S. 25-9-706, the financing statement ceases to be effective at the earlier of:

(1) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; and

(2) June 30, 2006.

(d) Continuation statement. -- The filing of a continuation statement after the effective date of this act does not continue the effectiveness of the financing statement filed before the effective date of this act. However, upon the timely filing of a continuation statement after the effective date of this act and in accordance with the law of the jurisdiction governing perfection as provided in Part 3 of this Article, the effectiveness of a financing statement filed in the same office in that jurisdiction before the effective date of this act continues for the period provided by the law of that jurisdiction.

(e) Application of subdivision (c)(2) to transmitting utility financing statement. -- Subdivision (c)(2) of this section applies to a financing statement that, before the effective date of this act, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in G.S. 25-9-103 of former Article 9 only to the extent that Part 3 of this Article provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(f) Application of Part 5. -- A financing statement that includes a financing statement filed before the effective date of this act and a continuation statement filed after the effective date of this act is effective only to the extent that it satisfies the requirements of Part 5 of this Article for an initial financing statement.

"§ 25-9-706. When initial financing statement suffices to continue effectiveness of financing statement.

(a) Initial financing statement in lieu of continuation statement. -- The filing of an initial financing statement in the office specified in G.S. 25-9-501 continues the effectiveness of a financing statement filed before the effective date of this act if:

(1) The filing of an initial financing statement in that office would be effective to perfect a security interest under this act;

(2) The pre-effective-date financing statement was filed in an office in another state or another office in this State; and

(3) The initial financing statement satisfies subsection (c) of this section.

(b) Period of continued effectiveness. -- The filing of an initial financing statement under subsection (a) of this section continues the effectiveness of the pre-effective-date financing statement:

(1) If the initial financing statement is filed before the effective date of this act, for the period provided in G.S. 25-9-403 of former Article 9 with respect to a financing statement; and

(2) If the initial financing statement is filed after the effective date of this act, for the period provided in G.S. 25-9-515 with respect to an initial financing statement.

(c) Requirement for initial financing statement under subsection (a). -- To be effective for purposes of subsection (a) of this section, an initial financing statement must:

(1) Satisfy the requirements of Part 5 of this Article for an initial financing statement;

(2) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(3) Indicate that the pre-effective-date financing statement remains effective.

"*§ 25-9-707. Amendment of pre-effective-date financing statement.*

(a) 'Pre-effective-date financing statement'. -- In this section, 'pre-effective-date financing statement' means a financing statement filed before the effective date of this act.

(b) Applicable law. -- After the effective date of this act, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Part 3 of this Article. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Method of amending: general rule. -- Except as otherwise provided in subsection (d) of this section, if the law of this State governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after the effective date of this act only if:

(1) The pre-effective-date financing statement and an amendment are filed in the office specified in G.S. 25-9-501;

(2) An amendment is filed in the office specified in G.S. 25-9-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies G.S. 25-9-706(c); or

(3) An initial financing statement that provides the information as amended and satisfies G.S. 25-9-706(c) is filed in the office specified in G.S. 25-9-501.

(d) Method of amending: continuation. -- If the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under G.S. 25-9-705(d) and (f) or G.S. 25-9-706.

(e) Reserved.

(f) Method of amending: termination. -- If the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be terminated after the effective date of this act only if:

(1) The pre-effective-date financing statement and a termination statement are filed in the office specified in G.S. 25-9-501; or

(2) A termination statement is filed in the office specified in G.S. 25-9-501 concurrently with the filing in that office of an initial financing statement that satisfies G.S. 25-9-706(c). Under this subsection, no separate fee shall be charged for the filing or indexing of the termination statement.

"*§ 25-9-708. Persons entitled to file initial financing statement or continuation statement.*

A person may file an initial financing statement or a continuation statement under this Part if:

(1) The secured party of record authorizes the filing; and

(2) The filing is necessary under this Part:
a. To continue the effectiveness of a financing statement filed before the effective date of this act; or
b. To perfect or continue the perfection of a security interest.

"§ 25-9-709. *Priority.*

(a) Law governing priority. -- This act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before the effective date of this act, former Article 9 determines priority.

(b) Priority if security interest becomes enforceable under G.S. 25-9-203. -- For purposes of G.S. 25-9-322(a), the priority of a security interest that becomes enforceable under G.S. 25-9-203 dates from the effective date of this act if the security interest is perfected under this act by the filing of a financing statement before the effective date of this act which would not have been effective to perfect the security interest under former Article 9. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

"§ 25-9-710. *Special transitional provision for maintaining and searching local-filing office records.*

(a) In this section:
(1) 'Former-Article-9 records' means:
a. Financing statements and other records that have been filed in the local-filing office before July 1, 2001, and that are, or upon processing and indexing will be, reflected in the index maintained, as of June 30, 2001, by the local-filing office for financing statements and other records filed in the local-filing office before July 1, 2001; and
b. The index as of June 30, 2001.
The term does not include records presented to a local-filing office for filing after June 30, 2001, whether or not the records relate to financing statements filed in the local-filing office before July 1, 2001.
(2) 'Local-filing office' means a filing office, other than the office of the Secretary of State, that is designated as the proper place to file a financing statement under G.S. 25-9-401(1) of former Article 9. The term applies only with respect to a record that covers a type of collateral as to which the filing office is designated in that section as the proper place to file.

(b) A local-filing office must not accept for filing a record presented after June 30, 2001, whether or not the record relates to a financing statement filed in the local-filing office before July 1, 2001.

(c) Until July 1, 2008, each local-filing office must maintain all former Article 9 records in accordance with former Article 9. A former Article 9 record that is not reflected on the index maintained at June 30, 2001, by the local-filing office must be processed and

indexed, and reflected on the index as of June 30, 2001, as soon as practicable but in any event no later than July 30, 2001.

(d) Until at least June 30, 2008, each local-filing office must respond to requests for information with respect to former Article 9 records relating to a debtor and issue certificates, in accordance with former Article 9. The fees charged for responding to requests for information relating to a debtor and issuing certificates with respect to former-Article-9 records must be the fees in effect under former Article 9 on June 30, 2001.

(e) After June 30, 2008, each local-filing office may remove and destroy, in accordance with any then applicable record retention law of this State, all former-Article-9 records, including the related index.

(f) This section does not apply, with respect to financing statements and other records, to a filing office in which mortgages or records of mortgages on real property are required to be filed or recorded, if:

(1) The collateral is timber to be cut or as-extracted collateral, or

(2) The record is or relates to a financing statement filed as a fixture and the collateral is goods that are or are to become fixtures."

Section 2.(a) Article 9 of Chapter 25 of the General Statutes, as enacted by Section 1 of this act, is amended by adding the following new section to read:

"*§ 25-9-521. Uniform form of written financing statement and amendment.*

(a) Initial financing statement form. -- A filing office that accepts written records may not refuse to accept a written initial financing statement in the following form and format except for a reason set forth in G.S. 25-9-516(b):

(b) Amendment form. -- A filing office that accepts written records may not refuse to accept a written record in the following form and format except for a reason set forth in G.S. 25-9-516(b)."

Section 2.(b) The Revisor of Statutes shall cause to be printed in G.S. 25-9-521(a), as enacted by subsection (a) of this section, the "National UCC Financing Statement (Form UCC1) (Rev. 07/29/98)" and the "National UCC Financing Statement Addendum (Form UCC1 Ad) (Rev. 07/29/98)" as reproduced in the official text of U.C.C. Article 9 (1999), which are hereby incorporated by reference into G.S. 25-9-521(a).

Section 2.(c) The Revisor of Statutes shall cause to be printed in G.S. 25-9-521(b), as enacted by subsection (a) of this section, the "National UCC Financing Statement Amendment (Form UCC3) (Rev. 07/29/98)" and the "National UCC Financing Statement Amendment Addendum (Form UCC3 Ad) (Rev. 07/29/98)" as reproduced in the official text of U.C.C. Article 9 (1999), which are hereby incorporated by reference into G.S. 25-9-521(b).

PART II. CONFORMING AMENDMENTS TO OTHER ARTICLES OF THE UNIFORM COMMERCIAL CODE.

Section 3. G.S. 25-1-105(2) reads as rewritten:

"(2) Where one of the following provisions of this Chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. (G.S. 25-2-402).

Applicability of the article on bank deposits and collections. (G.S. 25-4-102).

Governing law in the article on Funds Transfers. (G.S. 25-4A-507).

Letters of Credit. (G.S. 25-5-116).

Bulk transfers subject to the article on bulk transfers. (G.S. 25-6-102).

Applicability of the article on investment securities. (G.S. 25-8-110).

~~Perfection provisions of the article on secured transactions. (G.S. 25-9-103).~~

Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens. (G.S. 25-9-301 through G.S. 25-9-307).

~~Governing law in the article on Funds Transfers. (G.S. 25-4A-507).~~

~~Letters of Credit. (G.S. 25-5-116).~~"

Section 4. G.S. 25-1-109 reads as rewritten:

"<font=>§ 25-1-109. Section captions.

Section captions are parts of this chapter. The subsection headings in Article 9 of this Chapter are not parts of this Chapter."

Section 5. G.S. 25-1-201(9) reads as rewritten:

"(9) 'Buyer in ordinary course of business' means a person ~~who~~ that buys goods in good ~~faith and~~ faith, without knowledge that the sale ~~to him is in violation of~~ violates the ~~ownership~~ rights ~~or security interest~~ of ~~a third party~~ another person in the ~~goods~~ goods, and ~~buys~~ in the ordinary course from a ~~person~~ person, other than a pawnbroker, in the business of selling goods of that ~~kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons~~ kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. ~~"Buying"~~ A buyer in ordinary course of business may ~~be~~ buy for ~~cash~~ cash, ~~or~~ by exchange of other ~~property~~ property, or on secured or unsecured ~~credit~~ credit, and ~~includes receiving~~ may acquire goods or documents of title under a preexisting contract for ~~sale but does not~~

~~include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.~~ sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Article 2 of this Chapter may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in ordinary course of business."

Section 6. G.S. 25-1-201(32) reads as rewritten:

"(32) 'Purchase' includes taking by sale, discount, negotiation, mortgage, pledge, lien, security interest, issue or re-issue, gift or any other voluntary transaction creating an interest in property."

Section 7. G.S. 25-1-201(37) reads as rewritten:

"(37) 'Security interest' means an interest in personal property or fixtures which secures payment or performance of an obligation. ~~The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (G.S. 25-2-401) is limited in effect to a reservation of a "security interest".~~ The term also includes any interest of a consignor and a buyer of ~~accounts or~~ accounts, chattel ~~paper which~~ paper, a payment intangible, or a promissory note in a transaction that is subject to Article 9 of this Chapter. The special property interest of a buyer of goods on identification of those goods to a contract for sale under G.S. 25-2-401 is not a 'security interest,' but a buyer may also acquire a 'security interest' by complying with Article 9 of this Chapter. ~~Unless a consignment is intended as security, reservation of title thereunder is not a "security interest" but a consignment is in any event subject to the provisions on consignment sales (G.S. 25-2-326).~~ Except as otherwise provided in G.S. 25-2-505, the right of a seller or lessor of goods under Article 2 or 2A of this Chapter to retain or acquire possession of the goods is not a 'security interest', but a seller or lessor may also acquire a 'security interest' by complying with Article 9 of this Chapter. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (G.S. 25-2-401) is limited in effect to a reservation of a 'security interest'.

(a) Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest ~~if.~~ if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and:

(i) The original term of the lease is equal to or greater than the remaining economic life of the goods, or

(ii) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods, or

(iii) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement, or

(iv) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(b) A transaction does not create a security interest merely because it provides that:

(i) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into,

(ii) The lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods,

(iii) The lessee has an option to renew the lease or to become the owner of the goods,

(iv) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed, or

(v) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(c) For purposes of this subsection (37):

(i) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be

the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;

(ii) 'Reasonably predictable' and 'remaining economic life of the goods' are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and

(iii) 'Present value' means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into."

Section 8. G.S. 25-2-103(3) reads as rewritten:

"(3) The following definitions in other articles apply to this article:

'Check.' G.S. 25-3-104.

'Consignee.' G.S. 25-7-102.

'Consignor.' G.S. 25-7-102.

'Consumer goods.' ~~G.S. 25-9-109.~~ G.S. 25-9-102.

'Dishonor.' ~~G.S. 25-3-507.~~ G.S. 25-3-502.

'Draft.' G.S. 25-3-104."

Section 9. G.S. 25-2-210 reads as rewritten:

"*§ 25-2-210. Delegation of performance; assignment of rights.*

~~(1) A party may perform his duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.~~

~~(2) Unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him by his contract, or impair materially his chance of obtaining return performance. A right to damages for breach of the whole contract, or a right arising out of the assignor's due performance of his entire obligation can be assigned despite agreement otherwise.~~

~~(3) Unless the circumstances indicate the contrary a prohibition of assignment of "the contract" is to be construed as barring~~

~~only the delegation to the assignee of the assignor's performance.~~

~~(4) An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.~~

~~(5) The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to his rights against the assignor demand assurances from the assignee.~~

(1) A party may perform his duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) Except as otherwise provided in G.S. 25-9-406, unless otherwise agreed, all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him by his contract, or impair materially his chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his entire obligation can be assigned despite agreement otherwise.

(3) The creation, attachment, perfection, or enforcement of a security interest in the seller' interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) of this section unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but (i) the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer, and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

(4) Unless the circumstances indicate the contrary, a prohibition of assignment of 'the contract' is to be construed

as barring only the delegation to the assignee of the assignor's performance.

(5) An assignment of 'the contract' or of 'all my rights under the contract' or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(6) The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to his rights against the assignor demand assurances from the assignee."

Section 10. G.S. 25-2-326 reads as rewritten:

"*§ 25-2-326. Sale on approval and sale or return; ~~consignment sales and~~ rights of creditors.*

~~(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is~~

~~(a) a "sale on approval" if the goods are delivered primarily for use, and~~

~~(b) a "sale or return" if the goods are delivered primarily for resale.~~

~~(2) Except as provided in subsection (3), goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.~~

~~(3) Where goods are delivered to a person for sale and such person maintains a place of business at which he deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum." However, this subsection is not applicable if the person making delivery~~

~~(a) complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or~~

~~(b) establishes that the person conducting the business is generally known by his creditors to be substantially engaged in selling the goods of others, or~~

~~(c) complies with the filing provisions of the article on secured transactions (article 9).~~

~~(4) Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this article (G.S. 25-2-201) and as contradicting the sale aspect of the contract within the provisions of this article on parol or extrinsic evidence (G.S. 25-2-202).~~

(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is:

(a) a 'sale on approval' if the goods are delivered primarily for use, and

(b) a 'sale or return' if the goods are delivered primarily for resale.

(2) Goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

(3) Any 'or return' term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this article (G.S. 25-2-201) and as contradicting the sale aspect of the contract within the provisions of this article on parol or extrinsic evidence (G.S. 25-2-202)."

Section 11. G.S. 25-2-502 reads as rewritten:

"*§ 25-2-502. Buyer's right to goods on seller's repudiation, failure to deliver, or insolvency.*

~~(1) Subject to subsection (2) and even though the goods have not been shipped a buyer who has paid a part or all of the price of goods in which he has a special property under the provisions of the immediately preceding section [G.S. 25-2-501] may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if the seller becomes insolvent within ten days after receipt of the first installment on their price.~~

~~(2) If the identification creating his special property has been made by the buyer he acquires the right to recover the goods only if they conform to the contract for sale.~~

(1) Subject to subsections (2) and (3) of this section and even though the goods have not been shipped, a buyer who has paid a part or all of the price of goods in which he has a special property under G.S. 25-2-501 may, on making and keeping good a tender of any unpaid portion of their price, recover them from the seller if:

a. in the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by the contract; or

b. in all cases, the seller becomes insolvent within 10 days after receipt of the first installment on their price.

(2) The buyer's right to recover the goods under subdivision (1)a. of this section vests upon acquisition of a special

property, even if the seller had not then repudiated or failed to deliver.

(3) If the identification creating his special property has been made by the buyer, he acquires the right to recover the goods only if they conform to the contract for sale."

Section 12. G.S. 25-2-716(3) reads as rewritten:

"(3) The buyer has a right of replevin for goods identified to the contract if after reasonable effort he is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. In the case of goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver."

Section 13. G.S. 25-2A-103(3) reads as rewritten:

"(3) The following definitions in other Articles apply to this Article:

'Account'. ~~G.S. 25-9-106.~~ G.S. 25-9-102(a)(2).

'Between merchants'. G.S. 25-2-104(3).

'Buyer'. G.S. 25-2-103(1)(a).

'Chattel paper'. ~~G.S. 25-9-105(1)(b).~~ G.S. 25-9-102(a)(11).

'Consumer goods'. ~~G.S. 25-9-109(1).~~ G.S. 25-9-102(a)(23).

'Document'. ~~G.S. 25-9-105(1)(f).~~ G.S. 25-9-102(a)(30).

'Entrusting'. G.S. 25-2-403(3).

~~'General intangibles'. G.S. 25-9-106.~~

'General intangible'. G.S. 25-9-102(a)(42).

'Good faith'. G.S. 25-2-103(1)(b).

'Instrument'. ~~G.S. 25-9-105(1)(i).~~ G.S. 25-9-102(a)(47).

'Merchant'. G.S. 25-2-104(1).

'Mortgage'. ~~G.S. 25-9-105(1)(j).~~ G.S. 25-9-102(a)(55).

'Pursuant to commitment'. ~~G.S. 25-9-105(1)(k).~~ G.S. 25-9-102(a)(68).

'Receipt. G.S. 25-2-103(1)(c).

'Sale'. G.S. 25-2-106(1).

'Sale on approval'. G.S. 25-2-326.

'Sale or return'. G.S. 25-2-326.

'Seller'. G.S. 25-2-103(1)(d)."

Section 14. G.S. 25-2A-303 reads as rewritten:

"*§ 25-2A-303. Alienability of party's interest under lease contract or of lessor's residual interest in goods; delegation of performance; transfer of rights.*

~~(1) As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to Article 9 of this Chapter, Secured Transactions, by reason of G.S. 25-9-102(1)(b).~~

~~(2) Except as provided in subsections (3) and (4) of this section, a provision in a lease agreement which (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation, or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods; or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection (5) of this section, but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.~~

~~(3) A provision in a lease agreement which (i)prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, is not enforceable unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in (i) the lessor's interest under the lease contract or (ii) the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection (5) of this section unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.~~

~~(4) A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection (5) of this section.~~

~~(5) Subject to subsections (3) and (4) of this section:~~

~~(a) if a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in G.S. 25-2A-501(2);~~

~~(b) if paragraph (a) is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return~~

~~performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.~~

~~(6) A transfer of "the lease" or of "all my rights under the lease", or a transfer in similar general terms, is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.~~

~~(7) Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.~~

~~(8) In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.~~

(1) As used in this section, 'creation of a security interest' includes the sale of a lease contract that is subject to Article 9 of this Chapter, Secured Transactions, by reason of G.S. 25-9-109(a)(3).

(2) Except as provided in subsection (3) of this section and G.S. 25-9-407, a provision in a lease agreement which (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation, or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods; or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection (4) of this section, but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

(3) A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes such a transfer an event of default,

is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection (4) of this section.

(4) Subject to subsection (3) of this section and G.S. 25-9-407:

(a) if a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in G.S. 25-2A-501(2);

(b) if paragraph (a) is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

(5) A transfer of 'the lease' or of 'all my rights under the lease', or a transfer in similar general terms, is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

(6) Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

(7) In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous."

Section 15. G.S. 25-2A-307 reads as rewritten:

"*§ 25-2A-307. Priority of liens arising by attachment or levy on, security interests in, and other claims to goods.*

~~(1) Except as otherwise provided in G.S. 25-2A-306, a creditor of a lessee takes subject to the lease contract.~~

~~(2) Except as otherwise provided in subsections (3) and (4) of this section and in G.S. 25-2A-306 and G.S. 25-2A-308, a creditor of a lessor takes subject to the lease contract unless:~~

~~(a) the creditor holds a lien that attached to the goods before the lease contract became enforceable;~~

~~(b) the creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interest; or~~

~~(c) the creditor holds a security interest in the goods which was perfected (G.S. 25-9-303) before the lease contract became enforceable.~~

~~(3) A lessee in the ordinary course of business takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (G.S. 25-9-303) and the lessee knows of its existence.~~

~~(4) A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than 45 days after the lease contract becomes enforceable, whichever first occurs, unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.~~

(1) Except as otherwise provided in G.S. 25-2A-306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in subsection (3) of this section and in G.S. 25-2A-306 and G.S. 25-2A-308, a creditor of a lessor takes subject to the lease contract unless the creditor holds a lien that attached to the goods before the lease contract became enforceable.

(3) Except as otherwise provided in G.S. 25-9-317, 25-9-321, and 25-9-323, a lessee takes a leasehold interest subject to a security interest held by a creditor of the lessor."

Section 16. G.S. 25-2A-309(1)(b) reads as rewritten:

"(b) a 'fixture filing' is the filing, in the office where a record of a mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of ~~G.S. 25-9-402(5);~~ G.S. 25-9-502(a) and (b);"

Section 17. G.S. 25-4-208(c) reads as rewritten:

"(c) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to Article 9, but:

(1) No security agreement is necessary to make the security interest enforceable ~~(G.S. 25-9-203(1)(a);~~ (G.S. 25-9-203(b)(3)a.);
(2) No filing is required to perfect the security interest; and
(3) The security interest has priority over conflicting perfected security interests in the item, accompanying documents or proceeds."

Section 18. Article 5 of Chapter 25 of the General Statutes is amended by adding a new section to read:

"*§ 25-5-118. Security interest of issuer or nominated person.*

(a) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.

(b) So long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (a) of this section, the security interest continues and is subject to Article 9 of this Chapter, but:

(1) A security agreement is not necessary to make the security interest enforceable under G.S. 25-9-203(b)(3);
(2) If the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and
(3) If the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document."

Section 19. G.S. 25-6-102 reads as rewritten:

"*§ 25-6-102. 'Bulk transfers'; transfers of equipment; enterprises subject to this article; bulk transfers subject to this article.*

(1) A 'bulk transfer' is any transfer in bulk and not in the ordinary course of the transferor's business of a major part of the materials, supplies, merchandise or other inventory ~~(G.S. 25-9-109)~~ (G.S. 25-9-102) of an enterprise subject to this article.
(2) A transfer of a substantial part of the equipment ~~(G.S. 25-9-109)~~ (G.S. 25-9-102) of such an enterprise is a bulk transfer if it is made in connection with a bulk transfer of inventory, but not otherwise.
(3) The enterprises subject to this article are all those whose principal business is the sale of merchandise from stock, including those who manufacture what they sell.
(4) Except as limited by ~~the following section [G.S. 25-6-103]~~ G.S. 25-6-103 all bulk transfers of goods located within this State are subject to this article."

Section 20. G.S. 25-7-503(1) reads as rewritten:

"(1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither

(a) delivered or entrusted them or any document of title covering them to the bailor or his nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this article (G.S. 25-7-403) or with power of disposition under this chapter (G.S. 25-2-403 and ~~25-9-307~~) G.S. 25-9-320) or other statute or rule of law; nor

(b) acquiesced in the procurement by the bailor or his nominee of any document of title."

Section 21. G.S. 25-8-103(f) reads as rewritten:

"(f) A commodity contract, as defined in ~~G.S. 25-9-115,~~ G.S. 25-9-102(a)(15), is not a security or financial asset."

Section 22. G.S. 25-8-106 reads as rewritten:

"*§ 25-8-106. Control.*

(a) A purchaser has 'control' of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(b) A purchaser has 'control' of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

(1) The certificate is endorsed to the purchaser or in blank by an effective endorsement; or

(2) The certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(c) A purchaser has 'control' of an uncertificated security if:

(1) The uncertificated security is delivered to the purchaser; or

(2) The issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(d) A purchaser has 'control' of a security entitlement if:

(1) The purchaser becomes the entitlement holder; ~~or~~

(2) The securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement ~~holder.~~ holder; or

(3) Another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser.

(e) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(f) A purchaser who has satisfied the requirements of ~~subdivision (c) (2) or (d) (2)~~ subsection (c) or (d) of this section has ~~control~~ control, even if the registered owner in the case of ~~subdivision (c) (2)~~ subsection (c) of this section or the entitlement holder in the case of ~~subdivision (d) (2)~~ subsection (d) of this section retains the right to make substitutions for the uncertificated security or security

entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(g) An issuer or a securities intermediary may not enter into an agreement of the kind described in subdivision (c) (2) or (d) (2) of this section without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder."

Section 23. G.S. 25-8-110(e) reads as rewritten:

"~~(e) The following rules determine a 'securities intermediary's jurisdiction' for purposes of this section:~~

~~(1) If an agreement between the securities intermediary and its entitlement holder specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.~~

~~(2) If an agreement between the securities intermediary and its entitlement holder does not specify the governing law as provided in subdivision (1) of this subsection, but expressly specifies that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.~~

~~(3) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in subdivision (1) or (2) of this subsection, the securities intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the entitlement holder's account.~~

~~(4) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in subdivision (1) or (2) of this subsection and an account statement does not identify an office serving the entitlement holder's account as provided in subdivision (3) of this subsection, the securities intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the securities intermediary.~~

(e) The following rules determine a 'securities intermediary's jurisdiction' for purposes of this section:

(1) If an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this Part, this Article, or this Chapter, that jurisdiction is the securities intermediary's jurisdiction.

(2) If subdivision (1) of this subsection does not apply and an agreement between the securities intermediary and its

entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) of this section applies and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(4) If none of the preceding subdivisions applies, the securities intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the entitlement holder's account is located.

(5) If none of the preceding subdivisions applies, the securities intermediary's jurisdiction is the jurisdiction in which the chief executive office of the securities intermediary is located."

Section 24. G.S. 25-8-301(a) reads as rewritten:

"(a) Delivery of a certificated security to a purchaser occurs when:

(1) The purchaser acquires possession of the security certificate;

(2) Another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

(3) A securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and ~~has been~~ is (i) registered in the name of the purchaser, (ii) payable to the order of the purchaser, or (iii) specially indorse to the purchaser by an effective ~~indorsement.~~ indorsement and has not been indorsed to the securities intermediary or in blank."

Section 25. G.S. 25-8-302(a) reads as rewritten:

"(a) Except as otherwise provided in subsections (b) and (c) of this section, ~~upon delivery~~ a purchaser of a certificated or uncertificated security ~~to a purchaser, the purchaser~~ acquires all rights in the security that the transferor had or had power to transfer."

Section 26. G.S. 25-8-510 reads as rewritten:

"*§ 25-8-510. Rights of purchaser of security entitlement from entitlement holder.*

(a) ~~An~~ In a case not covered by the priority rules in Article 9 of this Chapter or the rules stated in subsection (c) of this section, an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(b) If an adverse claim could not have been asserted against an entitlement holder under G.S. 25-8-502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(c) In a case not covered by the priority rules in ~~Article 9,~~ Article 9 of this Chapter, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. ~~Purchasers~~ Except as otherwise provided in subsection (d) of this section, purchasers who have control rank ~~equally, except that a~~ according to priority in time of:

(1) The purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under G.S. 25-8-106(d)(1);

(2) The securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under G.S. 25-8-106(d)(2); or

(3) If the purchaser obtained control through another person under G.S. 25-8-106(d)(3), the time on which priority would be based under this subsection if the other person were the secured party.

(d) A securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary."

PART III. CONFORMING AMENDMENTS TO OTHER SECTIONS OF THE GENERAL STATUTES.

Section 27. G.S. 6-21.2(5) reads as rewritten:

"(5) The holder of an unsecured note or other writing(s) evidencing an unsecured debt, and/or the holder of a note and chattel mortgage or other security agreement and/or the holder of a conditional sale contract or any other such security agreement which evidences both a monetary obligation and a security interest in or a lease of specific goods, or his attorney at law, shall, after maturity of the obligation by default or otherwise, notify the maker, debtor, account debtor, endorser or party sought to be held on said obligation that the provisions relative to payment of attorneys' fees in addition to the "outstanding balance" shall be enforced and that such maker, debtor, account debtor, endorser or party sought to be held on said obligation has five days from the mailing of such notice to pay the "outstanding balance" without the attorneys' fees. If such party shall pay the "outstanding balance" in full before the expiration of such time, then the obligation to

pay the attorneys' fees shall be void, and no court shall enforce such provisions.

Notwithstanding the foregoing, however, if debtor has defaulted or violated the terms of the security agreement and has refused, on demand, to surrender possession of the collateral to the secured party as authorized by ~~§ 25-9-503,~~ G.S. 25-9-609, with the result that said secured party is required to institute an ancillary claim and delivery proceeding to secure possession of said collateral; no such written notice shall be required before enforcement of the provisions relative to payment of attorneys' fees in addition to the "outstanding balance."

Section 28. G.S. 20-28.2(f)(5) reads as rewritten:

"(5) The lienholder agrees to sell the motor vehicle in accordance with the terms of its agreement and pursuant to the provisions of ~~Part 5~~ Part 6 of Article 9 of Chapter 25 of the General Statutes. Upon the sale of the motor vehicle, the lienholder will pay to the clerk of court of the county in which the vehicle was forfeited all proceeds from the sale, less the amount of the lien in favor of the lienholder, and any towing and storage costs paid by the lienholder."

Section 29. G.S. 20-28.3(e3)(1) reads as rewritten:

"(1) A lienholder may file a petition with the clerk of court requesting the court to order pretrial release of a seized motor vehicle. The lienholder shall serve a copy of the petition on all interested parties which shall include the registered owner, the titled owner, the district attorney, and the county board of education attorney. Upon 10 days' prior notice of the date, time, and location of the hearing sent by the lienholder to all interested parties, a judge, after a hearing, shall order a seized motor vehicle released to the lienholder conditioned upon payment of all towing and storage costs incurred as a result of the seizure and impoundment of the motor vehicle if the judge determines, by the greater weight of the evidence, that:

a. Default on the obligation secured by the motor vehicle has occurred;
b. As a consequence of default, the lienholder is entitled to possession of the motor vehicle;
c. The lienholder agrees to sell the motor vehicle in accordance with the terms of its agreement and pursuant to the provisions of ~~Part 5~~ Part 6 of Article 9 of Chapter 25 of the General Statutes. Upon sale of the motor vehicle, the lienholder will pay to the clerk of court of the county in which the driver was charged all proceeds from the sale, less the amount of the lien in favor of the lienholder, and any towing and storage costs paid by the lienholder;

d. The lienholder agrees not to sell, give, or otherwise transfer possession of the seized motor vehicle while the motor vehicle is subject to forfeiture, or the forfeited motor vehicle after the forfeiture hearing, to the defendant or the motor vehicle owner; and

e. The seized motor vehicle while the motor vehicle is subject to forfeiture, or the forfeited motor vehicle after the forfeiture hearing, had not previously been released to the lienholder as a result of a prior seizure involving the same defendant or motor vehicle owner."

Section 30. G.S. 20-58.8 reads as rewritten:

"*§ 20-58.8. Applicability of §§ 20-58 to 20-58.8; use of term 'lien'.*

~~(a) The provisions of G.S. 20-58 through 20-58.8 apply to the perfection of security interests pursuant to G.S. 25-9-302.~~

(b) The provisions of G.S. 20-58 through 20-58.8 inclusive shall not apply to or affect:

(1) A lien given by statute or rule of law for storage of a motor vehicle or to a supplier of services or materials for a vehicle;

(2) A lien arising by virtue of a statute in favor of the United States, this State or any political subdivision of this State; or

(3) A security interest in a vehicle created by a manufacturer or by a dealer in new or used vehicles who holds the vehicle in his inventory. ~~Such security interests shall be perfected by filing a financing statement under Article 9 of the Uniform Commercial Code.~~

(c) When the term "lien" is used in other sections of this Chapter, or has been used prior to October 1, 1969, with reference to transactions governed by G.S. 20-58 through 20-58.8, to describe contractual agreements creating security interests in personal property, the term "lien" shall be construed to refer to a "security interest" as the term is used in G.S. 20-58 through 20-58.8 and the Uniform Commercial Code."

Section 31. G.S. 25A-16 reads as rewritten:

"*§ 25A-16. Transfer of equity.*

If a buyer voluntarily transfers his rights in collateral pursuant to ~~G.S. 25-9-311~~ applicable law and the seller agrees, the seller may impose a transfer fee not to exceed ten percent (10%) of the unpaid balance of the debt or thirty-five dollars ($35.00), whichever is less."

Section 32. G.S. 25A-22(b) reads as rewritten:

"(b) Upon the payment of all sums for which the buyer is obligated under a consumer credit sale, the seller shall promptly release any security interest in accordance with the terms of ~~G.S. 25-9-404~~ G.S. 25-9-513 or G.S. 20-58.4, whichever is applicable. In the event a security interest in real property is involved, the seller shall take such action as is necessary to enable the lien to be discharged of record under the provisions of G.S. 45-37."

Section 33. G.S. 44-68.14(a)(1) reads as rewritten:

"(1) The Secretary of State, he shall cause the notice to be ~~marked, held, and indexed~~ numbered, maintained, and

indexed in accordance with ~~the provisions of G.S. 25-9-403(4),~~ G.S. 25-9-519, as if the notice were a financing statement within the meaning of the Uniform Commercial Code, Chapter 25 of the General Statutes; or".

Section 34. G.S. 44-68.14(b) reads as rewritten:

"(b) If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the Secretary of State for filing he shall cause:

(1) A record of a certificate of release or nonattachment to be ~~marked, held, and indexed~~ numbered, maintained, and indexed as if a record of the certificate were a termination statement within the meaning of the Uniform Commercial Code, Chapter 25 of the General Statutes, but the record of the notice of lien to which the certificate relates may not be removed from the files; and

(2) A record of a certificate of discharge or subordination to be ~~marked, held, and indexed~~ numbered, maintained, and indexed as if the record of the certificate were a release of collateral within the meaning of the Uniform Commercial Code, Chapter 25 of the General Statutes."

Section 35. G.S. 47-20(b)(1) reads as rewritten:

"(1) 'Rents, issues, or profits' means all amounts payable by or on behalf of any lessee, tenant, or other person having a possessory interest in real estate on account of or pursuant to any written or oral lease or other instrument evidencing a possessory interest in real property or pursuant to any form of tenancy implied by law, and all amounts payable by or on behalf of any licensee or permittee or other person occupying or using real property under license or permission from the owner or person entitled to possession. The term shall not include farm products as defined in ~~G.S. 25-9-109(3),~~ G.S. 25-9-102(34), timber, the proceeds from the sale of farm products or timber, or the proceeds from the recovery or severance of any mineral deposits located on or under real property."

Section 36. G.S. 53-177 reads as rewritten:

"*§ 53-177. Recording fees.*

The licensee may collect from the borrower the amount of any fees necessary to file or record its security interest with any public official or agency of a county or the State as may be required pursuant to ~~G.S. 25-9-302 et seq.~~ Article 9 of Chapter 25 of the General Statutes or G.S. 20-58 **et seq.** Upon full disclosure to the borrower on how the fees will be applied, such fees may either (i) be paid by the licensee to such public official or agency of the county or State, or (ii) in lieu of recording or filing, applied by the licensee to purchase nonfiling or nonrecording insurance on the instrument securing the loan, or (iii) be retained by a licensee that elects to self insure against the loss of a security interest by reason of not filing or recording its security instrument: Provided, however, the amount collected by the

licensee from the borrower for the purchase of a nonfiling or nonrecording insurance policy, or for self insurance, shall be the premium amount for such insurance as fixed by the Commissioner of Insurance. Such premium shall be at least one dollar ($1.00) less than the cost of recording or filing a security interest. Provided further, a licensee shall not collect or permit to be collected any notary fee in connection with any loan made under this Article, nor may a licensee collect any fee from the borrower for the cost of releasing a security interest except such fee as actually paid to any public official or agency of the county or State for such purpose."

Section 37. G.S. 63A-11(e) reads as rewritten:

"(e) ~~The provisions of G.S. 25-9-104(e) and G.S. 25-9-302(6) to the contrary notwithstanding, the provisions of Article 9 of the North Carolina Uniform Commercial Code, G.S. 25-9-101 to G.S. 25-9-607 inclusive, shall apply to transactions under this section, but not to transactions involving the issuance of bonds for airport projects, to the same extent the provisions of Article 9 would apply were G.S. 25-9-104(e) and G.S. 25-9-302(6) repealed.~~ Article 9 of Chapter 25 of the General Statutes applies to transactions under this section but not to transactions involving the issuance of bonds for airport projects."

Section 38. G.S. 75A-41 reads as rewritten:

"*§ 75A-41. Security interests subsequently created.*

~~Security interests, other than a security interest in inventory held for sale to be perfected only as provided in G.S. 25-9-301 to G.S. 25-9-408,~~ Except for security interests in watercraft that are inventory held for sale, security interests created in watercraft by the voluntary act of the owner after the original issue of title to the owner must be shown on the certificate of title. In such cases, the owner shall file an application with the Commission on a blank furnished for that purpose, setting forth the security interests and other information as the Commission requires. The Commission, if satisfied that it is proper that the same be recorded and upon surrender of the certificate of title covering the watercraft, shall thereupon issue a new certificate of title showing their security interests in the order of the priority according to the date of the filing of the application. For the purpose of recording the subsequent security interest, the Commission may require any secured party to deliver the certificate of title to the Commission. The newly issued certificate shall be sent or delivered to the secured party from whom the prior certificate was obtained."

Section 39. G.S. 75A-42 reads as rewritten:

"*§ 75A-42. Certificate as notice of security interest.*

A certificate of title, when issued by the Commission showing a security interest, shall be deemed adequate notice to the State, creditors, and purchasers that a security interest in the watercraft exists and the recording or filing of the creation or reservation of a security interest in the county or city wherein the purchaser or debtor resides or elsewhere is not necessary and shall not be required. Watercraft, other than those that are inventory held for sale, for which a certificate of title is currently in ~~effect,~~ effect shall be exempt from

the provisions of ~~G.S. 25-9-302, 25-9-304, 25-9-307, 25-9-309, 25-9-312, 25-9-318, and 25-9-401 to 25-9-408~~ G.S. 25-9-309, 25-9-310, 25-9-312, 25-9-320, 25-9-322, 25-9-323, 25-9-324, 25-9-331, 25-9-404, 25-9-405, 25-9-406, and 25-9-501 to 25-9-526 for so long as the certificate of title remains in effect."

Section 40. G.S. 75A-44 reads as rewritten:

"*§ 75A-44. Priority of security interests shown on certificates.*

~~The security interests, except security interests in watercraft which are inventory held for sale and which are perfected under G.S. 25-9-301 to 25-9-408,~~ Except for security interests in watercraft that are inventory held for sale, security interests shown upon the certificates of title issued by the Commission pursuant to applications for certificates shall have priority over any other liens or security interests against the watercraft however created and recorded, except for a mechanics lien for repairs, provided that the mechanic furnishes the holder of any recorded lien who may request it with an itemized sworn statement of the work done and materials supplied for which the lien is claimed."

Section 41. G.S. 143B-456.1(f) reads as rewritten:

"(f) ~~The provisions of G.S. 25-9-104(e) and G.S. 25-9-302(6) to the contrary notwithstanding, the provisions of Article 9 of the North Carolina Uniform Commercial Code, being G.S. 25-9-101 to G.S. 25-9-607, inclusive, shall apply to transactions under this section to the same extent the provisions of such Article 9 would apply were G.S. 25-9-104(e) and G.S. 25-9-302(6) hereby repealed.~~ Article 9 of Chapter 25 of the General Statutes applies to transactions under this section."

Section 42. G.S. 159C-28 reads as rewritten:

"*§ 159C-28. Application of the U.C.C.*

~~The provisions of G.S. 25-9-104(e) and 25-9-302(6) to the contrary notwithstanding, the provisions of Article 9 of the North Carolina Uniform Commercial Code, being G.S. 25-9-101 to 25-9-607, inclusive, shall apply to transactions under Chapter 159C to the same extent the provisions of such Article 9 would apply were G.S. 25-9-104(e) and 25-9-302(6) hereby repealed.~~ Article 9 of Chapter 25 of the General Statutes applies to transactions under this Chapter."

Section 43. G.S. 159D-23 reads as rewritten:

"*§ 159D-23. Application of Article 9 of Chapter 25.*

~~The provisions of G.S. 25-9-104(e) and 25-9-302(6) to the contrary notwithstanding, the provisions of Article 9 of North Carolina Uniform Commercial Code, being G.S. 25-9-101 to 25-9-607, inclusive, shall apply [to] transactions under this Chapter 159D to the same extent the provisions of such Article 9 would apply were G.S. 25-9-104(e) and 25-9-302(6) hereby repealed.~~ Article 9 of Chapter 25 of the General Statutes applies to transactions under this Chapter."

Section 44. G.S. 161-10(a)(13) reads as rewritten:

"(13) Uniform Commercial Code. -- Such fees as are provided for in Chapter 25, Article 9, ~~Part 4,~~ Part 5, of the General Statutes."

PART IV. UCC ARTICLE 9 FILING FEES INCREASE.

Section 45. G.S. 25-9-403(5) reads as rewritten:

"(5) The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement is ~~fifteen dollars ($15.00).~~ thirty dollars ($30.00)."

Section 46. G.S. 25-9-405 reads as rewritten:

"*§ 25-9-405. Assignment of security interest; duties of filing officer; fees.*

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in G.S. 25-9-403(4). The uniform fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment is ~~fifteen dollars ($15.00).~~ thirty dollars ($30.00).

(2) A secured party may assign of record all or part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and also the most current file number if it has been continued and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the Uniform Commercial Code index of the financing statement, and in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of G.S. 25-9-103, he shall index in the real estate index the assignment under the name of the assignor as grantor and, to the extent that the law of this State provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing, indexing, and furnishing filing data about such a separate statement of assignment is ~~fifteen dollars ($15.00).~~ thirty dollars ($30.00). Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of G.S. 25-9-402) may be

made only by an assignment of the mortgage in the manner provided by the law of the State other than this Chapter.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record."

Section 47. G.S. 25-9-406 reads as rewritten:

"*§ 25-9-406. Release of collateral; duties of filing officer; fees.*

A secured party of record may, by his signed statement, release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of G.S. 25-9-405, including payment of the required fee. Upon presentation of such a statement of release to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release is ~~fifteen dollars ($15.00).~~ thirty dollars ($30.00)."

Section 48. G.S. 25-9-407 reads as rewritten:

"*§ 25-9-407. Information from filing officer.*

(1) If the person filing any financing statement, termination statement, statement of assignment or statement of release furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the filing officer shall issue his certificate for which he shall not be liable showing whether there is on file, on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be ~~fifteen dollars ($15.00).~~ thirty dollars ($30.00). Where the Uniform Commercial Code index has been automated, the filing officer shall issue a computer printout of the index entries for a particular debtor for a fee of ~~fifteen dollars ($15.00).~~ thirty dollars ($30.00). Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of one dollar ($1.00) per page."

PART V. DIRECTIONS AND EFFECTIVE DATE.

Section 49. The Revisor of Statutes shall cause to be printed along with this act all relevant portions of the official comments to the Uniform Commercial Code, Revised Article 9 and conforming

amendments to Articles 1, 2, 2A, 4, 5, 6, 7, and 8 and all explanatory comments of the drafters of this act as the Revisor deems appropriate.

Section 50. The Department of the Secretary of State shall study the issue of fraudulent filings under Article 9 of Chapter 25 of the General Statutes that are intended to hinder, harass, delay, or otherwise interfere with public employees in the performance of their lawful duties. The Department shall report to the General Assembly by January 1, 2001, with any recommendations which may include the creation of civil or criminal sanctions or remedies related to these filings.

Section 51. Parts I, II, and III of this act become effective July 1, 2001. Part IV of this act becomes effective September 1, 2000, and applies to fees paid on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law upon approval of the Governor at 9:56 a.m. on the 2nd day of August, 2000.

H.B. 1544 **SESSION LAW 2000-170**

AN ACT TO CLARIFY THAT A TAXPAYER IS ENTITLED TO A REFUND OF AN OVERPAYMENT OF THE STATE EXCISE TAX ON CONVEYANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.35 reads as rewritten:

"*§ 105-228.35. Administrative provisions.*

~~The~~ Except as otherwise provided in this Article, the provisions of Article 9 of this Chapter apply to this Article."

Section 2. Article 8E of Chapter 105 of the General Statutes is amended by adding a new section to read:

"*§ 105-228.37. Refund of overpayment of tax.*

(a) Refund Request. -- A taxpayer who pays more tax than is due under this Article may request a refund of the overpayment by filing a written request for a refund with the board of county commissioners of the county where the tax was paid. The request must be filed within six months after the date the tax was paid and must explain why the taxpayer believes a refund is due.

(b) Hearing by County. -- A board of county commissioners must review a request for refund and must follow the time limitations set in G.S. 105-266.1 for holding a hearing and making a decision. If the board decides that a refund is due, it must refund the county's portion of the overpayment, together with any applicable interest, to the taxpayer. If the board finds that no refund is due, the written decision of the board must inform the taxpayer that the taxpayer may ask the Secretary to review the decision. The board must send the Secretary a copy of a decision on a request for refund.

(c) Review by Secretary. -- A taxpayer whose request for a refund is denied by a board of county commissioners may obtain a review of the board's decision by the Secretary. The request must be made in writing and must be filed within 30 days after the taxpayer receives the board's decision denying the refund. The Secretary must send the board of county commissioners a copy of the Secretary's decision made on the request. If the Secretary determines that a refund is due, the board of county commissioners must refund the county's portion of the overpayment, together with any applicable interest, to the taxpayer. A decision of the Secretary is binding on a board of county commissioners.

(d) Judicial Review. -- A taxpayer who disagrees with a decision of the Secretary may bring an action against the county and the State to recover the disputed overpayment. The action may be brought in the Superior Court of Wake County or in the superior court of the county where the tax was paid.

(e) Recording Correct Deed. -- Before a tax is refunded, the taxpayer must record a new instrument reflecting the correct amount of tax due. If no tax is due because an instrument was recorded in the wrong county, then the taxpayer must record a document stating that no tax was owed because the instrument being corrected was recorded in the wrong county. The taxpayer must include in the document the names of the grantors and grantees and the deed book and page number of the instrument being corrected.

When a taxpayer records a corrected instrument, the taxpayer must inform the register of deeds that the instrument being recorded is a correcting instrument. The taxpayer must give the register of deeds a copy of the decision granting the refund that shows the correct amount of tax due. The correcting instrument must include the deed book and page number of the instrument being corrected. The register of deeds must notify the county finance officer and the Secretary when the correcting instrument has been recorded.

(f) Interest. -- An overpayment of tax bears interest at the rate established in G.S. 105-241.1(i) from the date that interest begins to accrue. Interest begins to accrue on an overpayment 30 days after the request for a refund is filed by the taxpayer with the board of county commissioners."

Section 3. Notwithstanding G.S. 105-228.37, as enacted by this act, a refund request filed by a taxpayer who paid the tax imposed by Article 8E of Chapter 105 of the General Statutes on or after January 1, 2000, and whose time limit for requesting a refund expires on or before August 1, 2000, is considered timely if the request is filed with the board of county commissioners by October 1, 2000.

Section 4. This act is effective when it becomes law, and applies retroactively to taxes paid on or after January 1, 2000.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law upon approval of the Governor at 9:58 a.m. on the 2nd day of August, 2000.

H.B. 1132 **SESSION LAW 2000-171**

AN ACT TO PROMOTE THE PRESERVATION OF FARMLAND AND TO PROMOTE SMALL, FAMILY-OWNED FARMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-744(c) reads as rewritten:

"(c) There is established a 'North Carolina Farmland Preservation Trust Fund' to be administered by the Commissioner of Agriculture. The Trust Fund shall consist of all monies received for the purpose of purchasing agricultural conservation easements or transferred from counties or private sources. The Trust Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3. The Commissioner shall use Trust Fund monies for the purchase of agricultural conservation easements, including transaction costs, and shall distribute Trust Fund monies ~~to counties and private nonprofit conservation organizations~~ for such purchases, including transaction ~~costs.~~ costs, as follows:

(1) To a private nonprofit conservation organization that matches thirty percent (30%) of the Trust Fund monies it receives with funds from sources other than the Trust Fund.

(2) To counties according to the match requirements under subsection (c1) of this section.

(c1) A county that is an enterprise tier four county or an enterprise tier five county, as these tiers are defined in G.S. 105-129.3(a), and that has prepared a countywide farmland protection plan shall match fifteen percent (15%) of the Trust Fund monies it receives with county funds. A county that has not prepared a countywide farmland protection plan shall match thirty percent (30%) of the Trust Fund monies it receives with county funds. A county that is an enterprise tier one county, an enterprise tier two county, or an enterprise tier three county, as these counties are defined in G.S. 105-129.3(a), and that has prepared a countywide farmland protection plan shall not be required to match any of the Trust Fund monies it receives with county funds.

(c2) The Commissioner of Agriculture shall adopt rules ~~and regulations~~ governing the use, distribution, investment, and management of Trust Fund monies."

Section 2. G.S. 106-744 is amended by adding two new subsections to read:

"(e) As used in subsection (c1) of this section, a countywide farmland protection plan means a plan that satisfies all of the following requirements:

(1) The countywide farmland protection plan shall contain a list and description of existing agricultural activity in the county.

(2) The countywide farmland protection plan shall contain a list of existing challenges to continued family farming in the county.

(3) The countywide farmland protection plan shall contain a list of opportunities for maintaining or enhancing small, family-owned farms and the local agricultural economy.

(4) The countywide farmland protection plan shall describe how the county plans to maintain a viable agricultural community and shall address farmland preservation tools, such as agricultural economic development, including farm diversification and marketing assistance; other kinds of agricultural technical assistance, such as farm infrastructure financing, farmland purchasing, linking with younger farmers, and estate planning; the desirability and feasibility of donating agricultural conservation easements, and entering into voluntary agricultural districts.

(5) The countywide farmland protection plan shall contain a schedule for implementing the plan and an identification of possible funding sources for the long-term support of the plan.

(f) A countywide farmland protection plan that meets the requirements of subsection (e) of this section may be formulated with the assistance of an agricultural advisory board designated pursuant to G.S. 106-739."

Section 3. This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law upon approval of the Governor at 10:01 a.m. on the 2nd day of August, 2000.

H.B. 1218 **SESSION LAW 2000-172**

AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS: (1) TO PROMOTE WATER CONSERVATION BY PROVIDING FOR THE USE OF SUB-METERS IN CONSECUTIVE WATER SYSTEMS; (2) RELATED TO URBAN WATERFRONT REDEVELOPMENT; (3) TO PROVIDE FOR VARIANCES UNDER THE DREDGE AND FILL PERMIT PROGRAM; (4) TO CLARIFY THE AUTHORITY OF THE GOVERNOR TO MAKE APPOINTMENTS TO THE ENVIRONMENTAL MANAGEMENT COMMISSION; (5) TO REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO CONSULT WITH STAKEHOLDERS PRIOR TO DEVELOPING RIPARIAN BUFFER RULES; (6) TO PROHIBIT THE MARINE FISHERIES COMMISSION FROM ESTABLISHING FEES FOR CERTAIN PERMITS AND TO ABOLISH CERTAIN EXISTING PERMIT FEES; AND (7) TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

PART I. USE OF SUB-METERS IN CONSECUTIVE WATER SYSTEMS

Section 1.1. G.S. 130A-315 is amended by adding a new subsection to read:

"(d) When a person that receives water from a public water system is authorized by the Utilities Commission, pursuant to G.S. 62-110(g), to install sub-meters and resell water to persons who occupy the same contiguous premises, that person shall be regulated as a consecutive water system. The monitoring, analysis, and record-keeping requirements applicable to consecutive water systems under this section shall be satisfied by the monitoring, analysis, and record keeping performed by the supplying water system and submitted to the Department in compliance with this section. The supplying water system shall perform the same level of monitoring, analysis, and record keeping that the supplying system would perform if the person that receives the water had not been authorized to resell water under G.S. 62-110(g), but the supplying water system shall not be required to perform additional monitoring, analysis, and record keeping. A supplying water system is not responsible for operation, maintenance, or repair of the consecutive water system."

Section 1.2. In enacting Section 1.1 of this act, it is the intent of the General Assembly to promote water conservation while protecting public health, safety, welfare, and the environment and avoiding unduly burdensome requirements on consecutive water systems. Section 1.1 of this act shall not be construed to impose any requirement on a supplying water system other than the requirements that apply to the supplying water system on the date this act becomes effective and that would apply to the supplying water system if a consecutive water system had not been authorized.

PART II. URBAN WATERFRONT REDEVELOPMENT

Section 2.1. Section 3 of S.L. 1997-337, as amended by Section 55.2B of S.L. 1997-456, reads as rewritten:

"Section 3. This act is effective when it becomes law, expires ~~1 July 2000,~~ 1 April 2001, and applies to permits granted and applications submitted prior to ~~1 July 2000.~~ 1 April 2001. Any permits granted or applications issued prior to ~~July 1, 2000~~ 1 April 2001 shall be transferable."

Section 2.2. The Coastal Resources Commission shall adopt a temporary rule providing for and governing urban waterfront redevelopment in historically urban areas. The temporary rule shall become effective 1 April 2001 and shall remain in effect until a permanent rule that replaces the temporary rule becomes effective.

PART III. DREDGE AND FILL VARIANCES

Section 3.1. G.S. 113-229(c1) reads as rewritten:

"(c1) The Coastal Resources Commission may, by rule, designate certain classes of major and minor development for which a general or blanket permit may be issued. In developing these rules, the Commission shall ~~consider:~~ consider all of the following:

(1) The size of the ~~development;~~ development.

(2) The impact of the development on areas of environmental ~~concern;~~ concern.

(3) How often the class of development is carried ~~out;~~ out.

(4) The need for on-site oversight of the ~~development; and~~ development.

(5) The need for public review and comment on individual development projects.

(c2) General permits may be issued by the Commission as rules under the provisions of ~~G.S. 113A-107.~~ G.S. 113A-118.1. Individual development carried out under the provisions of general permits shall not be subject to the mandatory notice provisions of this section. The Commission may impose reasonable notice provisions and other appropriate conditions and safeguards on any general permit it issues. The variance, appeals, and enforcement provisions of this Article shall apply to any individual development projects undertaken under a general permit."

Section 3.2. G.S. 113-229(e) reads as rewritten:

"(e) Applications for permits except special emergency permit applications shall be circulated by the Department among all State agencies and, in the discretion of the Secretary, appropriate federal agencies having jurisdiction over the subject matter which might be affected by the project so that such agencies will have an opportunity to raise any objections they might have. The Department may deny an application for a dredge or fill permit upon finding: (1) that there will be significant adverse effect of the proposed dredging and filling on the use of the water by the public; or (2) that there will be significant adverse effect on the value and enjoyment of the property of any riparian owners; or (3) that there will be significant adverse effect on public health, safety, and welfare; or (4) that there will be significant adverse effect on the conservation of public and private water supplies; or (5) that there will be significant adverse effect on wildlife or fresh water, estuarine or marine fisheries. In the absence of such findings, a permit shall be granted. Such permit may be conditioned upon the applicant amending his proposal to take whatever measures are reasonably necessary to protect the public interest with respect to the factors enumerated in this subsection. Permits may allow for projects granted a permit the right to maintain such project for a period of up to 10 years. The right to maintain such project shall be granted subject to such conditions as may be reasonably necessary to protect the public interest. The Coastal Resources Commission shall coordinate the issuance of permits under this section and G.S. 113A-118 and the granting of variances under this section and G.S. 113A-120.1 to avoid duplication and to create a single, expedited permitting process. The Coastal Resources Commission

may adopt rules interpreting and applying the provisions of this section and rules specifying the procedures for obtaining a permit under this section. Maintenance work as defined in this subsection shall be limited to such activities as are required to maintain the project dimensions as found in the permit granted. The Department shall act on an application for permit within 75 days after the completed application is filed, provided the Department may extend such deadline by not more than an additional 75 days if necessary properly to consider the application, except for applications for a special emergency permit, in which case the Department shall act within two working days after an application is filed, and failure to so act shall automatically approve the application."

PART IV. CLARIFY ENVIRONMENTAL MANAGEMENT COMMISSION APPOINTMENTS

Section 4.1. G.S. 143B-283(b) reads as rewritten:

"(b) Members ~~so~~ appointed by the Governor shall serve terms of office of six years. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. ~~At the expiration of each member's term, the Governor shall replace the member with a new member of like qualifications.~~ The Governor may reappoint a member of the Commission to an additional term if, at the time of the reappointment, the member qualifies for membership on the Commission under subsection (a) of this section. ~~The initial members of the Environmental Management Commission shall be those members of the present Board of Water and Air Resources who shall meet the above standards for membership on the Environmental Management Commission and who shall serve on the Environmental Management Commission for a period equal to the remainder of their current terms on the Board of Water and Air Resources, four of whose appointments expire June 30, 1975, five of whose appointments expire June 30, 1977, and four of whose appointments expire June 30, 1979. Any initial appointment to replace a member of the present Board of Water and Air Resources who does not meet the above standards for membership on the Environmental Management Commission shall be for a period equal to the replaced member's unexpired term.~~

(b1) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(b2) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(b3) A majority of the Commission shall constitute a quorum for the transaction of business.

(b4) All clerical and other services required by the Commission shall be supplied by the Secretary of Environment and Natural Resources."

Section 4.2. G.S. 143B-283(d) reads as rewritten:

"(d) In addition to the members designated by subsection ~~(a),~~ (a) of this section, the General Assembly shall appoint four members, two upon the recommendation of the Speaker of the House of Representatives, and two upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. ~~The terms of initial appointees by the General Assembly shall expire on June 30, 1983. Thereafter, these members shall serve two-year terms.~~ Members appointed by the General Assembly shall serve terms of two years."

PART V. CONSULTATION WITH RIPARIAN BUFFER STAKEHOLDERS

Section 5.1. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"*§ 143-214.24. Riparian Buffer Protection Program: Coordination with River Basin Associations.*

(a) Prior to drafting temporary or permanent rules that require the preservation of riparian buffers in a river basin, the Department shall consult with major stakeholders who may have an interest in the proposed rules, including the board of directors or representatives designated by the board of directors of any river basin association in the affected river basin that meets all of the following criteria:

(1) The association is a nonprofit corporation, as defined by G.S. 55A-1-40.

(2) The association has as its primary purpose the conservation, preservation, and restoration of the environmental and natural resources of the river basin in which it is located.

(3) Membership in the association is open on a nondiscriminatory basis to all citizens in the river basin.

(4) The membership of the board of directors of the association includes at least one representative from each county with a significant portion of its territory in the river basin.

(5) The membership of the association includes significant representation from each of the following categories of persons:

a. Elected local officials.

b. Persons involved in agriculture.

c. Persons involved in residential and commercial land development.

d. Persons involved in forestry.

e. Representatives of community-based organizations.

f. Representatives of organizations that advocate for protection of the environment and conservation of natural resources.

g. Persons with special training and scientific expertise in protection of water who are affiliated with colleges and universities.

h. Private property owners.

i. Persons with a general interest in water quality protection.

(b) The purpose of the consultation required by subsection (a) of this section is to assure that major stakeholders who may have an interest in the proposed rules have an opportunity to inform the Department of their concerns before the Department drafts the rules."

PART VI. FISHERIES PERMIT FEES

Section 6.1. G.S. 113-169.1 reads as rewritten:

"§ *113-169.1. Permits for gear, equipment, and other specialized activities authorized.*

The Commission may adopt rules to establish permits for gear, equipment, and specialized activities, including commercial fishing operations that do not involve the use of a vessel and transplanting oysters or clams. ~~The Commission shall establish a fee for each permit in an amount that compensates the Division for the actual administrative costs associated with the permit but that does not exceed fifty dollars ($50.00) per permit.~~"

Section 6.2. Any fee established by the Marine Fisheries Commission pursuant to G.S. 113-169.1, as amended by Section 6.1 of this act, shall expire 1 July 2000.

PART VII. TECHNICAL CORRECTIONS

Section 7.1. G.S. 143-215.94E(i) reads as rewritten:

"(i) An owner or operator who notifies the Department of an intention to close or upgrade a commercial underground storage tank as provided in G.S. 143-215.94B(b)(2a) shall commence the closure or upgrade prior to 1 July 1994 and shall complete the closure or upgrade prior to 1 January 1995. An owner who notifies the Department of an intention to close or upgrade a commercial underground storage tank and who fails to commence and complete the closure as specified in this subsection is subject to a civil penalty as provided in ~~G.S. 143-215.94K.~~ G.S. 143-215.94W. The provisions of G.S. 143-215.94B(b)(2a) do not apply if an owner or operator who notifies the Department of an intention to close or upgrade a commercial underground storage tank fails to commence or complete the closure or upgrade within the dates specified in this subsection."

PART VIII. MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

Section 8.1. The headings to the Parts of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

Section 8.2. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 8.3. Sections 2.1, 6.1, and 6.2 of this act are effective retroactively to 1 July 2000. Section 4.1 of this act is effective upon ratification and applies retroactively to all appointments by the Governor to the Environmental Management Commission. All other sections of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law upon approval of the Governor at 10:05 a.m. on the 2nd day of August, 2000.

H.B. 1290 **SESSION LAW 2000-173**

AN ACT TO IMPROVE THE ADMINISTRATION OF THE TAX LAWS BY MAKING CLARIFYING AND CONFORMING CHANGES TO THE REVENUE AND RELATED LAWS.

The General Assembly of North Carolina enacts:

Section 1.(a) Section 10.2(3) of Chapter 13 of the Session Laws of the 1996 Second Extra Session, as amended by Section 1 of S.L. 1999-360, reads as rewritten:

"(3) Quality jobs and business expansion tax credits. -- Sections 3.5, 3.6, and 3.8 through 3.10 of Part III of this act become effective August 1, 1996. G.S. 105-129.11, as enacted by Part III of this act, becomes effective for taxable years beginning on or after January 1, 1997, and applies to training expenditures made on or after July 1, 1997. The remainder of Part III of this act is effective for taxable years beginning on or after January 1, 1996, and applies to jobs created on or after August 1, 1996, and property placed in service on or after August 1, 1996. Article 3A of Chapter 105 of the General Statutes is repealed ~~effective for applications for credits filed under G.S. 105-129.6 on or after January 1, 2006. G.S. 105-129.16 is repealed effective for business property placed in service on or after January 1, 2002. The remainder of~~ as provided in that Article. Article 3B of Chapter 105 of the General Statutes is repealed ~~effective for buildings to which federal credits~~

~~are allocated on or after January 1, 2006.~~ as provided in that Article. "

Section 1.(b) Section 4 of S.L. 1997-277, as amended by Section 18.1 of S.L. 1999-360, is codified as G.S. 105-129.2A(b), (c), and (d).

Section 1.(c) G.S. 105-129.2A, as codified by this act, reads as rewritten:

"*§ 105-129.2A. Sunset; studies.*

(a) Sunset. -- This Article is repealed effective for applications for credits filed under G.S. 105-129.6 on or after January 1, 2006.

(b) Equity Study. -- The Department of Commerce shall study the effect of the tax incentives provided in ~~the William S. Lee Quality Jobs and Business Expansion Act, codified as Article 3A of Chapter 105 of the General Statutes,~~ this Article on tax equity. This study shall include the following:

(1) Reexamining the formula in G.S. 105-129.3(b) used to define enterprise tiers, to include consideration of alternative measures for more equitable treatment of counties in similar economic circumstances.

(2) Considering whether the assignment of tiers and the applicable thresholds are equitable for smaller counties, for example those under 50,000 in population.

(3) Compiling any available data on whether expanding North Carolina businesses receive fewer benefits than out-of-State businesses that locate to North Carolina.

(c) Impact Study. -- The Department of Commerce shall study the effectiveness of the tax incentives provided in ~~the William S. Lee Quality Jobs and Business Expansion Act, codified as Article 3A of Chapter 105 of the General Statutes,~~ this Article. This study shall include:

(1) Study of the distribution of tax incentives across new and expanding industries.

(2) Examination of data on economic recruitment for the period 1994 through 2000 by county, by industry type, by size of investment, and by number of jobs, and other relevant information to determine the pattern of business locations and expansions before and after the enactment of the William S. Lee Act incentives.

(3) Measuring the direct costs and benefits of the tax incentives.

(4) Compiling available information on the current use of incentives by other states and whether that use is increasing or declining.

(d) Report. -- The Department of Commerce shall report the results of these studies and its recommendations to the 2001 General Assembly by April 1, 2001."

Section 1.(d) Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"*§ 105-129.15A. Sunset.*

G.S. 105-129.16 is repealed effective for business property placed in service on or after January 1, 2002. The remainder of this Article is repealed effective January 1, 2006. The repeal of G.S. 105-129.16A applies to renewable energy property placed in service on or after January 1, 2006. The repeal of G.S. 105-129.16B applies to buildings to which federal credits are allocated on or after January 1, 2006."

Section 2. Effective July 1, 2001, G.S. 105-88(e) reads as rewritten:

"(e) Counties, cities, and towns may levy a license tax on the business taxed under this ~~section not in excess of~~ section. Except as provided in G.S. 160A-211 and G.S. 153A-152, the tax may not exceed one hundred dollars ($100.00)."

Section 3. G.S. 105-113.82 reads as rewritten:

"§ *105-113.82. Distribution of part of beer and wine taxes.*

(a) Amount, Method. -- The Secretary shall distribute annually the following percentages of the net amount of excise taxes collected on the sale of malt beverages and wine during the preceding 12-month period ending March 31, less the amount of the net proceeds credited to the Department of Agriculture and Consumer Services under G.S. 105-113.81A, to the counties and cities in which the retail sale of these beverages is ~~authorized:~~ authorized in the entire county or city:

(1) Of the tax on malt beverages levied under G.S. 105-113.80(a), twenty-three and three-fourths percent (23 3/4%);

(2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), sixty-two percent (62%); and

(3) Of the tax on fortified wine levied under G.S. 105-113.80(b), twenty-two percent (22%).

If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at retail in both a county and a city located in the county, both the county and city shall receive a portion of the amount distributed, that portion to be determined on the basis of population. If one of these beverages may be licensed to be sold at retail in a city located in a county in which the sale of the beverage is otherwise prohibited, only the city shall receive a portion of the amount distributed, that portion to be determined on the basis of population. The amounts distributed under subdivisions (1), (2), and (3) shall be computed separately.

~~(b) Reduction in Amount Distributed. -- Where the sale of malt beverages, unfortified wine, or fortified wine is prohibited in a defined area of a city or county in which the sale of the beverage is authorized, the amount that would otherwise be distributed to the city or county on the basis of population under subsection (a) shall be reduced in the same ratio that the area of the defined area bears to the total area of the city or county, unless the defined area is a city. If the defined area in a county is a city, the reduction in the amount that would otherwise be distributed to the county under subsection (a) shall be based on population instead of area.~~

(c) Exception. -- Notwithstanding subsection (a), in a county in which ABC stores have been established by petition, the revenue shall be distributed as though the entire county had approved the retail sale of a beverage whose retail sale is authorized in part of the county.

(d) Time. -- The revenue shall be distributed to cities and counties within 60 days after March 31 of each year.

(e) Population Estimates. -- To determine the population of a city or county for purposes of the distribution required by this section, the Secretary shall use the most recent annual estimate of population certified by the State Planning Officer.

(f) City Defined. -- As used in this section, the term "city" means a city as defined in G.S. 153A-1(1) or an urban service district defined by the governing body of a consolidated city-county.

(g) Use of Funds. -- Funds distributed to a county or city under this section may be used for any public purpose.

(h) Disqualification. -- No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999."

Section 4. G.S. 105-113.84 reads as rewritten:

"§ *105-113.84. ~~Invoices; report~~ Report of resident brewery, resident winery, or nonresident vendor.*

~~(a) Invoice. -- A resident brewery, resident winery, or nonresident vendor that sells or delivers wine or malt beverages to a North Carolina wholesaler or importer shall give that wholesaler or importer two copies of the sales invoice and shall also file one copy with the Secretary. The invoice shall state all of the following:~~

- ~~(1) The name and address of the permit holder making the sale or delivery.~~
- ~~(2) The name, address, and permit number of the wholesaler or importer receiving the beverages.~~
- ~~(3) The kind of beverage sold or delivered, including the number of cases.~~
- ~~(4) The exact quantities of beverages sold or delivered, specified by size and type of containers.~~
- ~~(5) The total gallons of malt beverages, the total liters of unfortified wine, and the total liters of fortified wine.~~

~~(b) Monthly Report. -- Each resident brewery, resident winery, or nonresident vendor that sells or delivers wine or malt beverages in North Carolina shall prepare and file with the Secretary a monthly report, on a form provided by the Secretary, stating the exact quantities of those beverages sold to North Carolina wholesalers or importers during the previous month. The report shall be filed on or before the 15th day of the month following the month in which the beverages are sold or delivered.~~

A resident brewery, resident winery, and nonresident vendor must file a monthly report with the Secretary. The report must list the amount of beverages delivered to North Carolina wholesalers and importers during the month. The report is due by the 15th day of the month following the month covered by the report. The report must be filed on a form approved by the Secretary and must contain the information required by the Secretary."

Section 5. G.S. 105-113.85 reads as rewritten:

"*§ 105-113.85. Discount.*

Each wholesaler or importer who remits the excise taxes on malt beverages or wine may deduct from the amount payable by him a discount of four percent (4%). This discount covers losses due to spoilage and breakage, expenses incurred in preparing the records and reports required by this Article, and the expense of furnishing a bond. ~~No discount is allowed on taxpaid beverages given as free goods for advertising.~~"

Section 6. G.S. 105-113.88 reads as rewritten:

"*§ 105-113.88. ~~Record keeping~~ Record-keeping requirements.*

~~(a) Requirement. -- Every person licensed under this Article shall maintain complete and accurate records of all purchases and sales of alcoholic beverages taxable under this Article. These records shall be kept separate from all other records the person keeps. Each person shall also maintain copies of all reports filed with the Secretary and invoices, sales tickets, and other data that substantiate those reports.~~

~~(b) Length of Time Records Shall Be Kept. -- Every person licensed under this Article shall keep the records, reports, and other information required by this section for three years.~~

A person who is required to file a report or return under this Article must keep a record of all documents used to determine information the person provides in a report or return. The records must be kept for three years from the due date of the report or return to which the records apply."

Section 7. G.S. 105-119 and G.S. 105-120.1 are repealed.

Section 8. G.S. 105-114 reads as rewritten:

"*§ 105-114. Nature of taxes; definitions.*

(a) Nature of Taxes. -- The taxes levied in this Article upon persons and partnerships are for the privilege of engaging in business or doing the act named.

(a1) Scope. -- The taxes levied in this Article upon corporations are privilege or excise taxes levied upon:

(1) Corporations organized under the laws of this State for the existence of the corporate rights and privileges granted by their charters, and the enjoyment, under the protection of the laws of this State, of the powers, rights, privileges and immunities derived from the State by the form of such existence; and

(2) Corporations not organized under the laws of this State for doing business in this State and for the benefit and protection which these corporations receive from the

government and laws of this State in doing business in this State.

~~If~~

(a2) Condition for Doing Business. -- If the corporation is organized under the laws of this State, the payment of the taxes levied by this Article ~~shall be~~ is a condition precedent to the right to continue in the corporate form of ~~organization; and if~~ organization. If the corporation is not organized under the laws of this State, payment of these taxes ~~shall be~~ is a condition precedent to the right to continue to engage in doing business in this State.

(a3) Tax Year. -- The taxes levied in this Article are for the fiscal year of the State in which the taxes become ~~due;~~ due, except that the taxes levied in G.S. 105-122 are for the income year of the corporation in which the taxes become due.

~~G.S. 105-122~~

(a4) No Double Taxation. -- G.S. 105-122 does not apply to ~~street transportation systems taxed under G.S. 105-120.1 or~~ holding companies taxed under G.S. 105-120.2. G.S. 105-122 applies to a corporation taxed under another section of this Article only to the extent the taxes levied on the corporation in G.S. 105-122 exceed the taxes levied on the corporation in other sections of this Article.

(b) Definitions. -- The following definitions apply in this Article:

(1) City. -- Defined in G.S. 105-228.90.

(1a) Code. -- Defined in G.S. 105-228.90.

(2) Corporation. -- A domestic corporation, a foreign corporation, an electric membership corporation organized under Chapter 117 of the General Statutes or doing business in this State, or an association that is organized for pecuniary gain, has capital stock represented by shares, whether with or without par value, and has privileges not possessed by individuals or partnerships. The term includes a mutual or capital stock savings and loan association or building and loan association chartered under the laws of any state or of the United States. The term does not include a limited liability company.

(3) Doing business. -- Each and every act, power, or privilege exercised or enjoyed in this State, as an incident to, or by virtue of the powers and privileges granted by the laws of this State.

(4) Income year. -- Defined in G.S. 105-130.2(5)."

Section 9. G.S. 105-164.3(8a) reads as rewritten:

"(8a) 'Manufactured home' means a structure that is designed to be used as a dwelling ~~and:~~ and that meets one of the following conditions:

a. ~~Is built on a permanent chassis;~~ Is manufactured in accordance with the specifications for manufactured homes issued by the United States Department of Housing and Urban Development.

b. ~~Is transportable in one or more sections;~~ Is manufactured in accordance with the specifications for modular homes under the North Carolina State Residential Building Code, is built on a permanent chassis, and is transportable in one or more sections.

~~c. When transported, is at least eight feet wide or forty feet long; and~~

~~d. When erected on a site, has at least 320 square feet.~~"

Section 10.(a) G.S. 105-187.1 is amended by adding a new subdivision to read:

"(3a) Retailer. -- A retailer as defined in G.S. 105-164.3 who is engaged in the business of selling, leasing, or renting motor vehicles."

Section 10.(b) G.S. 105-187.5(a) reads as rewritten:

"(a) Election. -- A retailer ~~who is engaged in the business of leasing or renting motor vehicles~~ may elect not to pay the tax imposed by this Article at the rate set in G.S. 105-187.3 when applying for a certificate of title for a motor vehicle purchased by the retailer for lease or rental. A retailer who makes this election shall pay a tax on the gross receipts of the lease or rental of the vehicle. Like the tax imposed by G.S. 105-187.3, this alternate tax is a tax on the privilege of using the highways of this State. The tax is imposed on a retailer, but is to be added to the lease or rental price of a motor vehicle and thereby be paid by the person who leases or rents the vehicle."

Section 10.(c) G.S. 20-4.01(5) reads as rewritten:

"(5) Dealer. -- Every person engaged in the business of buying, selling, distributing, or exchanging motor vehicles, ~~trailers~~ trailers, or semitrailers in this State, and having an established place of business in this ~~State and being subject to the tax levied by G.S. 105-89.~~ State.

The terms 'motor vehicle dealer,' 'new motor vehicle dealer,' and 'used motor vehicle dealer' ~~shall~~ as used in Article 12 of this Chapter have the meaning set forth in G.S. 20-286."

Section 11. G.S. 105-259(b)(15) reads as rewritten:

"(b) Disclosure Prohibited. -- An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

. . .

(15) To exchange information concerning a tax imposed by Articles 2A, 2C, or 2D of this Chapter with one of the following agencies when the information is needed to fulfill a duty imposed on the Department or the agency:

a. The North Carolina Alcoholic Beverage Control Commission.

b. The Division of Alcohol Law Enforcement of the Department of Crime Control and Public Safety.

c. The Bureau of Alcohol, Tobacco, and Firearms of the United States Treasury Department.
d. Law enforcement agencies.
e. The Division of Adult Probation and Parole of the Department of Correction."

Section 12. G.S. 105-449.44 reads as rewritten:

"*§ 105-449.44. How to determine the amount of fuel used in the State; presumption of amount used.*

(a) Calculation. -- The amount of motor fuel or alternative fuel a motor carrier ~~carries~~ uses in its operations in this State for a reporting period is the ratio of the number of miles the motor carrier travels in this State during that period to the total number of miles the motor carrier travels inside and outside this State during that period, multiplied by the total amount of fuel the motor carrier uses in its operations inside and outside the State during that period.

(b) Presumption. -- The Secretary ~~shall~~ must check reports filed under this Article against the weigh station records and other records of the Division of Motor Vehicles of the Department of Transportation concerning motor carriers to determine if motor carriers that are operating in this State are filing the reports required by this Article. The Department may assess a motor carrier for the amount payable based on the presumed mileage. A motor carrier that does either of the following for a quarter is presumed to have traveled in this State during that quarter the number of miles equal to 10 trips of 450 miles each for each of the motor carrier's vehicles:

(1) Fails to file a report for the quarter and the records of the Division indicate the carrier operated in this State during the quarter.
(2) Files a report for the quarter that, based on the records of the Division, understates by at least twenty-five percent (25%) the carrier's mileage in this State for the quarter.

(c) Vehicles. -- The number of vehicles of a motor carrier that is registered under this Article is the number of identification markers issued to the carrier. The number of vehicles of a carrier that is not registered under this Article is the number of vehicles registered by the motor carrier in the carrier's base state under the International Registration Plan. ~~The Department shall assess a motor carrier for the amount payable based on the presumed mileage.~~"

Section 13.(a) Effective July 1, 2000, G.S. 105-449.60(31) and (40) read as rewritten:

"*§ 105-449.60. Definitions.*

The following definitions apply in this Article:

. . .

(31) Supplier. -- Any of the following:
a. A position holder or a person who receives motor fuel pursuant to a two-party ~~transaction.~~ exchange.
b. A fuel alcohol provider.

. . .

(40) Two-party ~~transaction.~~ exchange. -- A transaction in which motor fuel is transferred ~~between two licensed suppliers as the motor fuel crosses the terminal rack as the result of an exchange agreement or a sale between the suppliers that requires the supplier that is the position holder~~ from one licensed supplier to another licensed supplier pursuant to an exchange agreement under which the supplier that is the position holder agrees to deliver motor fuel to the other supplier or the other supplier's customer at the rack of the terminal at which the delivering supplier is the position holder."

Section 13.(b) Effective July 1, 2000, G.S. 105-449.88 is amended by adding a new subdivision to read:

"*§ 105-449.88. Exemptions from the excise tax.*

The excise tax on motor fuel does not apply to the following:

. . .

(1a) Motor fuel removed by transport truck from a terminal for export if the motor fuel is removed by a licensed distributor or licensed exporter, the supplier that is the position holder for the motor fuel sells the motor fuel to another supplier as the motor fuel crosses the terminal rack, the purchasing supplier or its customer receives the motor fuel at the terminal rack for export, and the supplier that is the position holder collects tax on the motor fuel at the rate of the motor fuel's destination state."

Section 14.(a) G.S. 105-449.60(41) reads as rewritten:

"*§ 105-449.60. Definitions.*

The following definitions apply in this Article:

. . .

(41) User. -- A person who owns or operates a licensed highway vehicle that has a registered gross vehicle weight of at last 10,001 pounds and who ~~and~~ does not maintain storage facilities for motor fuel."

Section 14.(b) G.S. 105-449.68 reads as rewritten:

"*§ 105-449.68. Restrictions on who can get a license as a distributor.*

A bulk-end user of motor fuel may not be licensed as a distributor unless the bulk-end user also acquires motor fuel from a supplier or from another distributor for subsequent sale. This restriction does not apply to a bulk-end user that was licensed as a distributor on January 1, 1996. If a distributor license held by a bulk-end user on January 1, 1996, is subsequently cancelled, the bulk-end user is subject to the restriction set in this section."

Section 14.(c) G.S. 105-449.97(c) reads as rewritten:

"(c) Percentage Discount. -- A supplier that sells motor fuel directly to an unlicensed distributor or to the bulk-end user, the retailer, or the user of the fuel may take the same percentage discount on the fuel that a licensed distributor may take under G.S. 105-449.93(b) when making deferred payments of tax to the supplier."

Section 15. G.S. 105-449.88(1) reads as rewritten:

"§ *105-449.88. Exemptions from the excise tax.*

The excise tax on motor fuel does not apply to the following:

(1) Motor fuel removed, by transport truck or another means of transfer outside the terminal transfer system, from a terminal for export, if the motor fuel is removed by a licensed distributor or a licensed exporter and the supplier of the motor fuel collects tax on it at the rate of the motor fuel's destination state."

Section 16. The catch line of G.S. 105-449.105 reads as rewritten:

"§ *105-449.105. Refunds upon application for tax paid on exempt fuel, lost fuel, and fuel unsalable for highway ~~use, and undyed diesel fuel used in boats.~~ use.*"

Section 17. G.S. 105-449.105A reads as rewritten:

"§ *105-449.105A. Monthly refunds for kerosene.*

(a) Refund. -- A distributor who sells kerosene to any of the following may obtain a refund for the excise tax the distributor paid on the kerosene, less the amount of any discount allowed on the kerosene under G.S. 105-449.93:

(1) The end user of the kerosene, if the distributor dispenses the kerosene into a storage facility of the end user that contains fuel used only for heating.

(2) A retailer of kerosene, if the distributor dispenses the kerosene into a storage facility that is marked ~~for nonhighway use in accordance with the requirements in G.S. 105-449.123(a)(1) through (a)(3) and~~ with the phrase "Undyed, Untaxed Kerosene, Nontaxable Use Only" and either has a dispensing device that is not suitable for use in fueling a highway ~~vehicle.~~ vehicle or is kept locked by the retailer and must be unlocked by the retailer for each sale of kerosene.

(b) Liability. -- If the Secretary determines that the Department overpaid a distributor by refunding more tax to the distributor than is due under this section, the distributor is liable for the amount of the overpayment. This liability applies regardless of whether the actions of a retailer of kerosene contributed to the overpayment."

Section 18. G.S. 105-449.121(b)(2) reads as rewritten:

"(b) Inspection. -- The Secretary or a person designated by the Secretary may do any of the following to determine tax liability under this Article:

. . .

(2) Audit a ~~distributor~~ distributor, a retailer, a bulk-end user, or a motor fuel user that is not licensed under this Article."

Section 19.(a) G.S. 62A-5(d) reads as rewritten:

"(d) Any taxes due on 911 service provided by the service supplier will be billed to the local government subscribing to that service. ~~State and local taxes do not apply to 911 charges billed to subscribers under this Article.~~"

Section 19.(b) G.S. 105-120(c1) reads as rewritten:

"(c1) ~~Enhanced 911~~ Service ~~Charge.~~ Charges. -- Gross receipts of an entity that provides local telecommunications service do not include 911 charges imposed under G.S. 62A-5 and remitted to a local government under G.S. 62A-6, or wireless Enhanced 911 service charges imposed under G.S. 62A-23 and remitted to the Wireless Fund under G.S. 62A-24."

Section 19.(c) G.S. 105-130.5(b)(17) reads as rewritten:

"(17) The amount of 911 charges collected under G.S. 62A-5 and remitted to a local government under G.S. 62A-6, and the amount of wireless Enhanced 911 service charges collected under G.S. 62A-23 and remitted to the Wireless Fund under G.S. 62A-24."

Section 20. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law upon approval of the Governor at 10:06 a.m. on the 2nd day of August, 2000.

H.B. 1578 **SESSION LAW 2000-174**

AN ACT TO REPEAL THE POWERS AND DUTIES OF THE SECRETARY OF COMMERCE REGARDING INFORMATION TECHNOLOGY MATTERS AND TO REESTABLISH THOSE POWERS AND DUTIES WITHIN THE OFFICE OF THE GOVERNOR, AND TO MAKE OTHER CHANGES IN THE LAWS REGARDING INFORMATION TECHNOLOGY RELATED STATE GOVERNMENT FUNCTIONS.

The General Assembly of North Carolina enacts:

Section 1. Part 16 of Article 10 of Chapter 143B of the General Statutes is repealed.

Section 2. Chapter 147 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 3D.

"Office of Information Technology Services.

"Part 1. Transfer and Organization of Office.

"§ 147-33.75. Transfer to the Office of the Governor.

(a) The Office of Information Technology Services ("Office") of the Department of Commerce and the Information Resource Management Commission are hereby transferred to the Office of the Governor by a Type II transfer, as defined in G.S. 143A-6.

(b) The Governor has the authority, powers, and duties over the Office that are assigned to the Governor and the head of department pursuant to Article 1 of Chapter 143B of the General Statutes, G.S. 143A-6(b), and the Constitution and other laws of this State.

"§ 147-33.76. Head of the Office of Information Technology Services; qualification and appointment of State Chief Information Officer.

(a) The Office of Information Technology Services shall be managed and administered by the State Chief Information Officer. The State Chief Information Officer shall be qualified by education and experience for the office and shall be appointed by the Governor after consultation with the Senate Committee on Information Technology and the House Committee on Technology meeting jointly (or by similar committees designated by the rules of each house).

(b) The Governor shall submit the name of the person to be appointed for review by the entities specified in subsection (a) of this section.

(c) The salary of the State Chief Information Officer shall be set by the General Assembly in the Current Operations Appropriations Act. The State Chief Information Officer shall receive longevity pay on the same basis as is provided to employees of the State who are subject to the State Personnel Act.

"§ *147-33.77. Office of Information Technology Services; organization and operation.*

(a) The State Chief Information Officer may appoint a Chief Deputy Information Officer. The salary of the Chief Deputy Information Officer shall be set by the State Chief Information Officer. The State Chief Information Officer may appoint all employees, including legal counsel, necessary to carry out the powers and duties of the office. These employees shall be subject to the State Personnel Act.

(b) All employees of the office shall be under the supervision, direction, and control of the State Chief Information Officer. Except as otherwise provided by this Article, the State Chief Information Officer may assign any function vested in the State Chief Information Officer or the Office of Information Technology Services to any subordinate officer or employee of the office.

(c) The State Chief Information Officer may, subject to the provisions of G.S. 147-64.7(b)(2), obtain the services of independent public accountants, qualified management consultants, and other professional persons or experts to carry out powers and duties of the office.

(d) The State Chief Information Officer shall have legal custody of all books, papers, documents, and other records of the office.

(e) The State Chief Information Officer shall be responsible for the preparation of and the presentation of the office budget request, including all funds requested and all receipts expected for all elements of the budget.

(f) The State Chief Information Officer may adopt regulations for the administration of the office, the conduct of employees of the office, the distribution and performance of business, the performance of the functions assigned to the State Chief Information Officer and the Office of Information Technology Services, and the custody, use, and preservation of the records, documents, and property pertaining to the business of the office.

"§ *147-33.78. Information Resource Management Commission.*

(a) Creation; Membership. -- The Information Resource Management Commission is established and shall be located within the Office for organizational, budgetary, and administrative purposes. The Commission consists of the following members:

(1) Four members of the Council of State, appointed by the Governor.
(2) The Secretary of State.
(3) The Secretary of Administration.
(4) The State Budget Officer.
(5) Two members of the Governor's cabinet, appointed by the Governor.
(6) One citizen of the State of North Carolina with a background in and familiarity with information systems or telecommunications, appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.
(7) One citizen of the State of North Carolina with a background in and familiarity with information systems or telecommunications, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.
(8) The Chair of the Information Technology Management Advisory Council.
(9) The Chair of the Criminal Justice Information Network Governing Board.
(10) The State Controller.
(11) The Director of the Administrative Office of the Courts or the Director's designee.
(12) The President of The University of North Carolina or the President's designee.
(13) The President of the Community Colleges System Office or the President's designee.
(14) The Executive Director of the North Carolina League of Municipalities or the Executive Director's designee, who shall be a nonvoting member.
(15) The Executive Director of the North Carolina Association of County Commissioners or the Executive Director's designee, who shall be a nonvoting member.
(16) The State Chief Information Officer, who shall be a nonvoting member.

Members of the Commission shall not be employed by or serve on the board of directors or other corporate governing body of any information systems, computer hardware, computer software, or telecommunications vendor of goods and services to the State of North Carolina.

The initial appointed members of the Commission shall be the members appointed to the Information Resource Management Commission who are serving unexpired terms as of July 1, 2000, who shall serve for a period equal to the remainder of their current terms

on the Information Resource Management Commission. Upon the expiration of the current terms of the appointed members, their successors shall be appointed for four-year terms, commencing July 1. Members of the Governor's cabinet shall be disqualified from completing a term of service on the Commission if they are no longer cabinet members. Members of the Council of State shall be disqualified from completing a term of service on the Commission if they are no longer members of the Council of State.

Vacancies in the two legislative appointments shall be filled as provided in G.S. 120-122.

The Commission chair shall be elected in the first meeting of each calendar year from among the appointees of the Governor from the Council of State and shall serve a term of one year. The State Chief Information Officer shall be secretary to the Commission.

No member of the Information Resource Management Commission shall vote on an action affecting solely his or her own State agency.

(b) Powers and Duties. -- The Commission has the following powers and duties:

(1) To develop, approve, and publish a statewide information technology strategy covering the current and following biennium that shall be updated annually and shall be submitted to the General Assembly on the first day of each regular session.

(2) To develop, approve, and sponsor statewide technology initiatives and to report on those initiatives in the annual update of the statewide information technology strategy.

(3) To review and approve biennially the information technology plans of the executive agencies and the Administrative Office of the Courts. This review shall include plans for the procurement and use of personal computers and workstations.

(4) To recommend to the Governor and the Office of State Budget and Management the relative priorities across executive agency and Administrative Office of the Courts information technology plans.

(5) To issue certification of any State agency information technology project that requires or is expected to require the expenditure of funds in excess of five hundred thousand dollars ($500,000), whether the project is undertaken in a single phase or component or in multiple phases or components. The certification shall be issued when the Commission determines that the project complies with Commission policies, standards, and procedures. The Commission shall promptly report each certification to the Office of State Budget and Management, the Office of the State Controller, the Chairs of the Legislative Committees on Information Technology, and the Cochairs of the Joint Legislative Commission on Governmental Operations. No State agency, other than The University of North Carolina

or any of its constituent institutions, shall allocate or expend funds in excess of five hundred thousand dollars ($500,000) on any information technology project without prior certification as required by this subsection. If an agency cannot determine whether a project or series of projects will require certification, the agency shall seek an opinion from the Commission. Upon review, the Commission may determine that a project is exempt from certification and shall advise the agency of its determination.

(6) To establish a quality assurance policy for all agency information technology projects, information systems training programs, and information systems documentation. If at any time a certified agency information technology project is not in compliance with Commission policies, standards, or procedures, the Commission may suspend project certification and shall report the suspension to the Office of the State Controller, the Office of State Budget and Management, the Chairs of the Legislative Committees on Information Technology, and the Cochairs of the Joint Legislative Commission on Governmental Operations. Upon recommendation of the Commission, the Joint Legislative Commission on Governmental Operations may request the State Budget Office and the State Controller to take appropriate remedial action, up to and including the suspension of appropriations or the nonrelease of funds to the project.

(7) To establish and enforce a quality review and expenditure review procedure for major agency information technology projects.

(8) To review and approve expenditures from appropriations made to the Office of State Budget and Management for the purpose of creating a Computer Reserve Fund.

(9) To develop and promote technical requirements for the fair and competitive procurement of information technology in cooperation with the Office of Information Technology Services where different information technology hardware, software, and networks operate together easily and reliably, while considering the cost-effectiveness of managing these assets.

(c) Meetings. -- The Information Resources Management Commission shall adopt bylaws containing rules governing its meeting procedures. The Information Resources Management Commission shall meet at least monthly.

"*§ 147-33.79. Information Resources Management Commission staff.*

(a) There is established in the Office an independent staff for the Information Resources Management Commission. The staff shall consist of an executive director and such other professional, administrative, technical, and clerical personnel as authorized by the

General Assembly as may be necessary to assist the Commission in carrying out its powers and duties.

(b) All independent staff shall be appointed, supervised, and directed by the Commission. The executive director shall be exempt from the provisions of Chapter 126 of the General Statutes, except for Articles 6 and 7 of Chapter 126 of the General Statutes. All other staff personnel shall be subject to the provisions of Chapter 126 of the General Statutes. The independent staff shall not be subject to the supervision, direction, or control of the Office.

(c) Except for the executive director, salaries and compensation of all staff personnel shall be fixed in the manner provided by law for fixing and regulating salaries and compensation by other State agencies.

(d) Expenses of the Commission and the salaries of the independent staff shall be paid out of funds from receipts available to the Office of Information Technology Services as requested by the Commission.

"Part 2. General Powers and Duties.

"*§ 147-33.80. Exempt agencies.*

Except as otherwise specifically provided by law, this Article shall not apply to the General Assembly, the Judicial Department, or The University of North Carolina and its constituent institutions. These agencies may elect to participate in the information technology programs, services, or contracts offered by the Office, including information technology procurement, in accordance with the statutes, policies, and rules of the Office.

"*§ 147-33.81. Definitions.*

As used in this Article:

(1) "Distributed information technology assets" means hardware, software, and communications equipment not classified as traditional mainframe-based items, including personal computers, local area networks (LANs), servers, mobile computers, peripheral equipment, and other related hardware and software items.

(2) "Information technology" means electronic data processing goods and services and telecommunications goods and services, microprocessors, software, information processing, office systems, any services related to the foregoing, and consulting or other services for design or redesign of information technology supporting business processes.

(3) "Information technology enterprise management" means a method for managing distributed information technology assets from acquisition through retirement so that total ownership costs (purchase, operation, maintenance, disposal, etc.) are minimized while maximum benefits are realized.

(4) "Information technology portfolio management" means a business-based approach for analyzing and ranking potential technology investments and selecting those investments that are the most cost-effective in supporting the strategic business and program objectives of the agency.

(5) "Office" means the Office of Information Technology Services as established in this Article.

"§ *147-33.82. Powers and duties of the Office of Information Technology Services.*

(a) The Office of Information Technology Services shall:

(1) Procure all information technology for State agencies, as provided in Part 4 of this Article.

(2) Submit for approval of the Information Resources Management Commission all rates and fees for common, shared State government-wide technology services provided by the Office.

(3) Submit for approval of the Information Resources Management Commission recommended State government-wide, enterprise-level policies for information technology.

(4) Develop standards, procedures, and processes to implement policies approved by the Information Resources Management Commission.

(5) Assure that State agencies implement and manage information technology portfolio-based management of State information technology resources, in accordance with the direction set by the State Chief Information Officer.

(6) Assure that State agencies implement and manage information technology enterprise management efforts of State government, in accordance with the direction set by the State Chief Information Officer.

(7) Provide recommendations to the Information Resources Management Commission for its biennial technology strategy and to develop State government-wide technology initiatives to be approved by the Information Resources Management Commission.

(8) Develop a project management, quality assurance, and architectural review process that adheres to the Information Resources Management Commission's certification program and portfolio-based management initiative.

(9) Establish and utilize the Information Technology Management Advisory Council to consist of representatives from other State agencies to advise the Office on information technology business management and technology matters.

(b) Notwithstanding any other provision of law, local governmental entities may use the information technology programs, services, or contracts offered by the Office, including information technology procurement, in accordance with the statutes, policies, and rules of the Office. For purposes of this subsection, "local governmental entities" includes local school administrative units, as defined in G.S. 115C-5, and community colleges. Local governmental entities are not required to comply with otherwise applicable competitive bidding requirements when using contracts established by the Office. Any other State entities may also use the information technology programs, services, or contracts offered by the Office, including information

technology procurement, in accordance with the statutes, policies, and rules of the Office.

"*§ 147-33.83. Information resources centers and services.*

(a) With respect to all executive departments and agencies of State government, except the Department of Justice if they do not elect at their option to participate, the Office of Information Technology Services shall have all of the following powers and duties:

(1) To establish and operate information resource centers and services to serve two or more departments on a cost-sharing basis, if the Information Resources Management Commission decides it is advisable from the standpoint of efficiency and economy to establish these centers and services.

(2) With the approval of the Information Resources Management Commission, to charge each department for which services are performed its proportionate part of the cost of maintaining and operating the shared centers and services.

(3) With the approval of the Information Resources Management Commission, to require any department served to transfer to the Office ownership, custody, or control of information processing equipment, supplies, and positions required by the shared centers and services.

(4) With the approval of the Information Resources Management Commission, to adopt reasonable rules for the efficient and economical management and operation of the shared centers, services, and the integrated State telecommunications network.

(5) With the approval of the Information Resources Management Commission, to adopt plans, policies, procedures, and rules for the acquisition, management, and use of information technology resources in the departments affected by this section to facilitate more efficient and economic use of information technology in these departments.

(6) To develop and promote training programs to efficiently implement, use, and manage information technology resources.

(7) To provide cities, counties, and other local governmental units with access to the Office of Information Technology Services, information resource centers and services as authorized in this section for State agencies. Access shall be provided on the same cost basis that applies to State agencies.

(b) No data of a confidential nature, as defined in the General Statutes or federal law, may be entered into or processed through any cost-sharing information resource center or network established under this section until safeguards for the data's security satisfactory to the department head and the State Chief Information Officer have been designed and installed and are fully operational. Nothing in this section may be construed to prescribe what programs to satisfy a

department's objectives are to be undertaken, nor to remove from the control and administration of the departments the responsibility for program efforts, regardless whether these efforts are specifically required by statute or are administered under the general program authority and responsibility of the department. This section does not affect the provisions of G.S. 147-64.6, 147-64.7, or 147-33.89. Notwithstanding any other provision of law, the Office of Information Technology Services shall provide information technology services on a cost-sharing basis to the General Assembly and its agencies as requested by the Legislative Services Commission.

"*§ 147-33.84. Deviations authorized for Department of Revenue.*

(a) The Department of Revenue is authorized to deviate from any provision in G.S. 147-33.83(a) that requires departments or agencies to consolidate information processing functions on equipment owned, controlled, or under custody of the Office of Information Technology Services. All deviations pursuant to this section shall be reported in writing within 15 days by the Department of Revenue to the Information Resources Management Commission and shall be consistent with available funding.

(b) The Department of Revenue is authorized to adopt and shall adopt plans, policies, procedures, requirements, and rules for the acquisition, management, and use of information processing equipment, information processing programs, data communications capabilities, and information systems personnel in the Department of Revenue. If the plans, policies, procedures, requirements, rules, or standards adopted by the Department of Revenue deviate from the policies, procedures, or guidelines adopted by the Office of Information Technology Services or the Information Resources Management Commission, those deviations shall be allowed and shall be reported in writing within 15 days by the Department of Revenue to the Information Resources Management Commission. The Department of Revenue and the Office of Information Technology Services shall develop data communications capabilities between the two computer centers utilizing the North Carolina Integrated Network, subject to a security review by the Secretary of Revenue.

(c) The Department of Revenue shall prepare a plan to allow for substantial recovery and operation of major, critical computer applications. The plan shall include the names of the computer programs, databases, and data communications capabilities, identify the maximum amount of outage that can occur prior to the initiation of the plan and resumption of operation. The plan shall be consistent with commonly accepted practices for disaster recovery in the information processing industry. The plan shall be tested as soon as practical, but not later than six months, after the establishment of the Department of Revenue information processing capability.

"*§ 147-33.85. Information technology portfolio-based management.*

(a) The purposes of information technology portfolio-based management are to:

(1) Ensure agencies link agency information technology investments with business plans.
(2) Facilitate risk assessment of information technology projects and investments.
(3) Ensure agencies justify information technology investments on the basis of sound business cases.
(4) Ensure agencies facilitate development and review of information technology performance related to business operations.
(5) Identify projects that can cross agency and program lines in order to leverage resources.
(6) Assist in State government-wide planning for common, shared information technology infrastructure.

(b) The Office shall coordinate with the Office of State Budget and Management and the Office of State Planning to integrate agency strategic and business planning, technology planning and budgeting, and project expenditure processes into the Office's information technology portfolio-based management. The Office shall provide recommendations for agency annual budget requests for information technology investments, projects, and initiatives to the Office of State Budget and Management.

(c) In cooperation with State agencies, the Office shall conduct and maintain a continuous inventory of each State agency's current and planned investments in information technology, a compilation of information about these assets, and the total life cycle costs of these assets. In implementing the provisions of this subsection, the Office shall submit State government-wide policies for review and approval to the Information Resources Management Commission. The Office shall consult with the Office of the State Controller to establish and implement the State government-wide information technology inventory. The Office shall develop and implement State government-wide standards, processes, and procedures for the required inventory and for the management of the State government-wide information technology portfolio. State agencies shall participate in the information technology portfolio management and shall comply with the standards and processes established by the Office in accordance with this subsection. The provisions of this subsection shall not relieve any department, institution, or agency of the State government from accountability for equipment, materials, supplies, and tangible and intangible personal property under its control.

(d) No State agency information technology project shall proceed without the prior certification by the Information Resources Management Commission of the project. The Information Resources Management Commission may establish thresholds at an agency level based on project cost, potential project risk, or agency size and budget.

"*§ 147-33.86. Enterprise management of information technology assets.*

(a) The purpose of enterprise management is to create a plan and implement a State government-wide approach for managing distributed

information technology assets to minimize total life-cycle costs of assets, defined as total ownership costs from acquisition through retirement, while realizing maximum benefits for transacting the State's business and delivering services to its citizens.

(b) With input and recommendations from State agencies, the Office shall develop a plan for the State government-wide management of distributed information technology assets. The plan shall prescribe the State government-wide infrastructure and services for managing these assets. The plan shall be submitted to the Information Resources Management Commission for approval.

(c) Upon receiving approval by the Information Resources Management Commission, the Office shall ensure agency implementation of the plan, including the development of appropriate standards, processes, and procedures. The implementation effort shall follow Information Resources Management Commission project-reporting policies. State agencies must participate in the enterprise management of information technology assets and must comply with the standards and processes of the Office.

"§ 147-33.87. Financial reporting and accountability for information technology investments and expenditures.

The Office of Information Technology Services, the Office of State Budget and Management, and the Office of the State Controller shall jointly develop a system for budgeting and accounting of expenditures for information technology operations, services, projects, infrastructure, and assets. The system shall include hardware, software, personnel, training, contractual services, and other items relevant to information technology, and the sources of funding for each. This system must integrate seamlessly with the enterprise portfolio management system. Annual reports regarding information technology shall be coordinated by the Office with the Office of State Budget and Management and the Office of the State Controller, and submitted to the Governor, General Assembly, and the Information Resources Management Commission on or before October 1 of each year.

"§ 147-33.88. Information technology reports.

(a) The Office shall develop an annual budget for review and approval by the Information Resources Management Commission prior to April 1 of each year. A copy of the approved budget shall be submitted to the Joint Select Committee on Information Technology and the Fiscal Research Division.

(b) The Office shall report to the Joint Select Committee on Information Technology and the Fiscal Research Division on the Office's Internal Service Fund on a quarterly basis, no later than the first day of the second month following the end of the quarter. The report shall include current cash balances, line-item detail on expenditures from the previous quarter, and anticipated expenditures for the upcoming quarter, projected year-end balance, and the status report on personnel position changes including new positions created

and existing positions eliminated. The Office spending reports shall comply with the State Accounting System object codes.

"Part 3. Telecommunications Services.

"§ *147-33.89. Telecommunications services; duties of State Chief Information Officer with respect to State agencies.*

With respect to State agencies, the State Chief Information Officer shall exercise general coordinating authority for all telecommunications matters relating to the internal management and operations of those agencies. In discharging that responsibility, the State Chief Information Officer may in cooperation with affected State agency heads, do such of the following things as the State Chief Information Officer deems necessary and advisable:

(1) Provide for the establishment, management, and operation, through either State ownership or commercial leasing, of the following systems and services as they affect the internal management and operation of State agencies:
   a. Central telephone systems and telephone networks;
   b. Teleprocessing systems;
   c. Teletype and facsimile services;
   d. Satellite services;
   e. Closed-circuit TV systems;
   f. Two-way radio systems;
   g. Microwave systems; and
   h. Related systems based on telecommunication technologies.

(2) With the approval of the Information Resources Management Commission, coordinate the development of cost-sharing systems for respective user agencies for their proportionate parts of the cost of maintenance and operation of the systems and services listed in subdivision (1) of this section.

(3) Assist in the development of coordinated telecommunications services or systems within and among all State agencies and recommend, where appropriate, cooperative utilization of telecommunication facilities by aggregating users.

(4) Perform traffic analysis and engineering for all telecommunications services and systems listed in subdivision (1) of this subsection.

(5) Pursuant to G.S. 143-49, establish telecommunications specifications and designs so as to promote and support compatibility of the systems within State agencies.

(6) Pursuant to G.S. 143-49 and G.S. 143-50, coordinate the review of requests by State agencies for the procurement of telecommunications systems or services.

(7) Pursuant to G.S. 143-341 and Chapter 146 of the General Statutes, coordinate the review of requests by State agencies for State government property acquisition, disposition, or construction for telecommunications systems requirements.

(8) Provide a periodic inventory of telecommunications costs, facilities, systems, and personnel within State agencies.

(9) Promote, coordinate, and assist in the design and engineering of emergency telecommunications systems, including, but not limited to, the 911 emergency telephone number program, Emergency Medical Services, and other emergency telecommunications services.

(10) Perform frequency coordination and management for State agencies and local governments, including all public safety radio service frequencies, in accordance with the rules and regulations of the Federal Communications Commission or any successor federal agency.

(11) Advise all State agencies on telecommunications management planning and related matters and provide through the State Personnel Training Center or the Office of Information Technology Services training to users within State agencies in telecommunications technology and systems.

(12) Assist and coordinate the development of policies and long-range plans, consistent with the protection of citizens' rights to privacy and access to information, for the acquisition and use of telecommunications systems, and base such policies and plans on current information about State telecommunications activities in relation to the full range of emerging technologies.

(13) Work cooperatively with the North Carolina Agency for Public Telecommunications in furthering the purpose of this section.

The provisions of this section shall not apply to the Criminal Information Division of the Department of Justice or to the Judicial Information System in the Judicial Department.

"*§ 147-33.90. Telecommunications services for local governmental units and other entities.*

(a) The State Chief Information Officer shall provide cities, counties, and other local governmental units with access to a central telecommunications system or service established under G.S. 147-33.89 for State agencies. Access shall be provided on the same cost basis that applies to State agencies.

(b) The State Chief Information Officer shall establish switched broadband telecommunications services and permit in addition to State agencies, cities, counties, and other local government units, the following organizations and entities to share on a not-for-profit basis:

(1) Nonprofit educational institutions.

(2) MCNC.

(3) Research affiliates of MCNC for use only in connection with research activities sponsored or funded, in whole or in part, by MCNC, if such research activities relate to health care or education in North Carolina.

(4) Agencies of the United States government operating in North Carolina for use only in connection with activities that relate to health care or education in North Carolina.

(5) Hospitals, clinics, and other health care facilities for use only in connection with activities that relate to health care or education in North Carolina.

Provided, however, that sharing of the switched broadband telecommunications services by State agencies with entities or organizations in the categories set forth in this subsection shall not cause the State, the Office of Information Technology Services, or the MCNC to be classified as a public utility as that term is defined in G.S. 62-3(23)a.6. Nor shall the State, the Office of Information Technology Services, or the MCNC engage in any activities that may cause those entities to be classified as a common carrier as that term is defined in the Communications Act of 1934, 47 U.S.C. § 153(h). Provided further, authority to share the switched broadband telecommunications services with the non-State agencies set forth in subdivisions (1) through (5) of this subsection shall terminate one year from the effective date of a tariff that makes the broadband services available to any customer.

"Part 4. Procurement of Information Technology.

"*§ 147-33.91. Procurement of information technology.*

(a) Notwithstanding any other provision of law, the Office of Information Technology Services shall procure all information technology for State agencies. For purposes of this section, agency means any department, institution, commission, committee, board, division, bureau, office, officer, or official of the State, unless specifically exempted in this Article. The Office shall integrate technological review, cost analysis, and procurement for all information technology needs of those State agencies in order to make procurement and implementation of technology more responsive, efficient, and cost-effective. All contract information shall be made a matter of public record after the award of contract. Provided, that trade secrets, test data, similar proprietary information, and security information protected under G.S. 132-6.1(c) may remain confidential.

(b) The Office shall have the authority and responsibility, subject to the provisions of this Part, to:

(1) Purchase or to contract for, by suitable means in conformity with G.S. 143-135.9, all information technology in the State government, or any of its departments, institutions, or agencies covered by this Part, or to authorize any department, institution, or agency covered by this Part to purchase or contract for such information technology.

(2) Establish processes, specifications, and standards which shall apply to all information technology to be purchased, licensed, or leased in the State government or any of its departments, institutions, or agencies covered by this Part.

(3) Comply with the State government-wide technical architecture, as required by the Information Resources Management Commission.

"§ 147-33.92. Restriction on State agency contractual authority with regard to information technology; local governments.

(a) All State agencies covered by this Part shall use contracts for information technology acquired by the Office for any information technology required by the State agency that is provided by these contracts. Notwithstanding any other statute, the authority of State agencies to procure or obtain information technology shall be subject to compliance with the provisions of this Part. The Office shall have the authority to exercise the authority of State agencies to procure or obtain information technology as otherwise provided by statute.

(b) Local governmental entities are not required to comply with otherwise applicable competitive bidding requirements when using contracts offered by the Office.

"§ 147-33.93. Information technology procurement policy; reporting requirements.

(a) Policy. -- In order to further the policy of the State to encourage and promote the use of small, minority, physically handicapped, and women contractors in State purchasing of goods and services, all State agencies covered by this Part shall cooperate with the Office in efforts to encourage the use of small, minority, physically handicapped, and women contractors in achieving the purpose of this Part, which is to provide for the effective and economical acquisition, management, and disposition of information technology.

(b) Reporting. -- Every State agency that makes a direct purchase of information technology using the services of the Office shall report directly to the Department of Administration all information required by G.S. 143-48(b).

(c) The Department of Administration shall collect and compile the data described in this section and report it annually to the Office.

"§ 147-33.94. Unauthorized use of public purchase or contract procedures for private benefit prohibited.

(a) It shall be unlawful for any person, by the use of the powers, policies, or procedures described in this Part or established hereunder, to purchase, attempt to purchase, procure, or attempt to procure any property or services for private use or benefit.

(b) This prohibition shall not apply if:

(1) The department, institution, or agency through which the property or services are procured had theretofore established policies and procedures permitting such purchases or procurement by a class or classes of persons in order to provide for the mutual benefit of such persons and the department, institution, or agency involved, or the public benefit or convenience; and

(2) Such policies and procedures, including any reimbursement policies, are complied with by the person permitted

thereunder to use the purchasing or procurement procedures described in this Part or established thereunder.

(c) Any violation of this section is a Class 1 misdemeanor.

"§ *147-33.95. Financial interest of officers in sources of supply; acceptance of bribes.*

Neither the State Chief Information Officer nor the Chief Deputy State Information Officer shall be financially interested, or have any personal beneficial interest, either directly or indirectly, in the purchase of, or contract for, any information technology, nor in any firm, corporation, partnership, or association furnishing any information technology to the State government, or any of its departments, institutions, or agencies, nor shall either of these persons or any other Office employee accept or receive, directly or indirectly, from any person, firm, or corporation to whom any contract may be awarded, by rebate, gifts, or otherwise, any money or anything of value whatsoever, or any promise, obligation, or contract for future reward or compensation. Violation of this section is a Class F felony, and any person found guilty of a violation of this section shall, upon conviction, be removed from State office or employment.

"§ *147-33.96. Certification that information technology bid submitted without collusion.*

The Office shall require bidders to certify that each bid on information technology contracts overseen by the Office is submitted competitively and without collusion. False certification is a Class I felony.

"§ *147-33.97. Board of Awards review.*

(a) When the dollar value of a contract for the procurement of information technology equipment, materials, and supplies exceeds the benchmark established by the Chief State Information Officer, the contract shall be reviewed by the Board of Awards pursuant to G.S. 143-52.1 prior to the contract being awarded.

(b) Prior to submission of any contract for review by the Board of Awards pursuant to this section for any contract for information technology being acquired for the benefit of the Office and not on behalf of any other State agency, the Director of the Budget shall review and approve the procurement to ensure compliance with the established processes, specifications, and standards applicable to all information technology purchased, licensed, or leased in State government, including established procurement processes, and compliance with the State government-wide technical architecture as established by the Information Resources Management Commission.

"§ *147-33.98. Penalty for violations; costs.*

Any employee or official of the State who violates this Part shall be liable to the State to repay any amount expended in violation of this Part, together with any court costs.

"§ *147-33.99. Attorney General contract assistance; rule-making authority.*

(a) At the request of the State Chief Information Officer, the Attorney General shall provide legal advice and services necessary to implement this Part.

(b) The State Chief Information Officer is authorized to adopt rules deemed necessary to implement the provisions of this Part."

Section 3. This act becomes effective September 1, 2000.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law upon approval of the Governor at 10:09 a.m. on the 2nd day of August, 2000.

S.B. 1082 **SESSION LAW 2000-175**

AN ACT TO EXTEND THE TERMS OF MEMBERS OF THE STRUCTURAL PEST CONTROL COMMITTEE THAT ARE APPOINTED BY THE GENERAL ASSEMBLY FROM TWO YEARS TO FOUR YEARS AND TO REQUIRE THAT THE MEMBER RECOMMENDED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES BE ACTIVELY ENGAGED IN THE PEST CONTROL INDUSTRY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-65.23(c) reads as rewritten:

"(c) There is hereby created a Structural Pest Control Committee to be composed of the following members. The Commissioner shall appoint one member of the Committee who is not in the structural pest control business for a four-year term. The Commissioner of Agriculture shall designate an employee of the Department of Agriculture and Consumer Services to serve on the Committee at the pleasure of the Commissioner. The dean of the School of Agriculture of North Carolina State University at Raleigh shall appoint one member of the Committee who shall serve for one term of two years and who shall be a member of the entomology faculty of the University. The vacancy occurring on the Committee by the expired term of the member from the entomology faculty of the University shall be filled by the dean of the School of Agriculture of North Carolina State University at Raleigh who shall designate any person of the dean's choice from the entomology faculty of the University to serve on the Committee at the pleasure of the dean. The Secretary of Health and Human Services shall appoint one member of the Committee who shall be an epidemiologist and who shall serve at the pleasure of the Secretary. The Governor shall appoint two members of the Committee who are actively engaged in the pest control industry, who are licensed in at least two phases of structural pest control as provided under G.S. 106-65.25(a), and who are residents of the State of North Carolina but not affiliates of the same company.

~~One member of the Committee shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and one member of~~

~~the Committee shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Vacancies in such appointments shall be filled in accordance with G.S. 120-122.~~

The Governor's initial appointees ~~initial Committee members~~ from the pest control industry shall be appointed as follows: one for a two-year term and one for a three-year term. The Governor shall appoint one member of the Committee who is a public member and who is unaffiliated with the structural pest control industry, the pesticide industry, the Department of Agriculture and Consumer Services, the Department of Health and Human Services and the School of Agriculture at North Carolina State University at Raleigh. The initial public member shall be appointed for a term of two years, commencing July 1, 1991. After the initial appointments by the Governor, all ensuing appointments by the Governor shall be for terms of four years. ~~Appointments made by the General Assembly shall be for terms of two years.~~ Any vacancy occurring on the Committee by reason of death, resignation, or otherwise shall be filled by the Governor or the Commissioner of Agriculture, as the case may be, for the unexpired term of the member whose seat is vacant.

One member of the Committee shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and one member of the Committee shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be actively engaged in the pest control industry, licensed in at least two phases of structural pest control as provided under G.S. 106-65.25(a), and a resident of the State of North Carolina but not an affiliate of the same company as either of the two members from the industry appointed by the Governor. Appointments made by the General Assembly shall be for terms of four years. Vacancies in such appointments shall be filled in accordance with G.S. 120-122."

Section 2. This act becomes effective October 1, 1999, and applies to members appointed on or after that date under G.S. 106-65.23, as amended by this act.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 10:10 a.m. on the 2nd day of August, 2000.

H.B. 1696 **SESSION LAW 2000-176**

AN ACT TO CLARIFY THE AUTHORITY OF THE COMMISSIONER OF INSURANCE AND STATE FIRE MARSHAL TO ESTABLISH PUBLIC PROTECTION CLASSIFICATIONS FOR INSURANCE RATING PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-36-10(3) reads as rewritten:

"(3) In the case of ~~fire~~ property insurance ~~rates, as are subject to the ratemaking authority of the Bureau,~~ rates under this Article, consideration may be given to the experience of ~~such fire~~ property insurance business during the most recent five-year period for which that experience is available. In the case of ~~fire~~ property insurance rates ~~that are subject to the ratemaking authority of the Bureau,~~ under this Article, consideration shall be given to the insurance public protection classifications of ~~rural fire districts based upon standards~~ fire districts established by the Commissioner. ~~To the extent credits are provided for proximity to fire hydrants, the Bureau may also provide appropriate credits in public protection classifications for optional water sources, such as ponds, lakes, or other bodies of water, in accordance with standards and procedures filed with and approved by the Commissioner.~~ The Commissioner shall establish and modify from time to time insurance public protection districts for all rural areas of the State and for cities with populations of 100,000 or fewer, according to the most recent annual population estimates certified by the State Planning Officer. In establishing and modifying these districts, the Commissioner shall use standards at least equivalent to those used by the Insurance Services Office, Inc., or any successor organization. The standards developed by the Commissioner are subject to Article 2A of Chapter 150B of the General Statutes. The insurance public protection classifications established by the Commissioner issued pursuant to the provisions of this Article shall be subject to appeal as provided in G.S. 58-2-75, et seq. The exceptions stated in G.S. 58-2-75(a) do not apply."

Section 2. G.S. 58-40-25(4) reads as rewritten:

"(4) ~~With respect to fire insurance, to the extent credits are provided for proximity to fire hydrants, insurers may also provide appropriate credits in public protection classifications for optional water sources, such as ponds, lakes, or other bodies of water, in accordance with standards and procedures filed with and approved by the Commissioner.~~ In the case of property insurance rates under this Article, consideration shall be given to the insurance public protection classifications of fire districts established by the Commissioner. The Commissioner shall establish and modify from time to time insurance public protection districts for all rural areas of the State and for cities with populations of 100,000 or fewer, according to the most recent annual population estimates certified by the State Planning Officer. In establishing and modifying these

districts, the Commissioner shall use standards at least equivalent to those used by the Insurance Services Office, Inc., or any successor organization. The standards developed by the Commissioner are subject to Article 2A of Chapter 150B of the General Statutes. The insurance public protection classifications established by the Commissioner issued pursuant to the provisions of this Article shall be subject to appeal as provided in G.S. 58-2-75, et seq. The exceptions stated in G.S. 58-2-75(a) do not apply."

Section 3. This act is effective when it becomes law. Any changes to classifications of insurance public protection districts issued by the Commissioner pursuant to this act shall become effective no sooner than 90 days after the standards for public protection district classifications are adopted by the Department and shall apply to insurance policies issued or renewed on or after that date.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law upon approval of the Governor at 10:12 a.m. on the 2nd day of August, 2000.

S.B. 586 **SESSION LAW 2000-177**

AN ACT TO AUTHORIZE THE CREATION OF MILLENNIAL CAMPUSES AT THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA AND TO PERMIT THE STATE EDUCATION ASSISTANCE AUTHORITY TO INVEST A PORTION OF THE PARENTAL SAVINGS TRUST FUND IN PREFERRED OR COMMON STOCKS ISSUED BY A COMPANY INCORPORATED OR OTHERWISE LOCATED WITHIN OR WITHOUT THE UNITED STATES.

The General Assembly of North Carolina enacts:

Section 1. The catch line of G.S. 116-36.5 reads as rewritten:

"*§ 116-36.5. Centennial Campus trust fund; Horace Williams Campus trust ~~fund.~~ fund; Millennial Campuses' trust funds.*"

Section 2. G.S. 116-36.5 is amended by adding a new subsection to read:

"(c) All moneys received through development of a Millennial Campus of a constituent institution of The University of North Carolina as defined by G.S. 116-198.33(4b), from whatever source, including the net proceeds from the lease or rental of real property on a Millennial Campus, shall be placed in a special, continuing, and nonreverting trust fund having the sole and exclusive use for further development of that Millennial Campus, including its operational development. This fund shall be treated in the manner of institutional trust funds as provided in G.S. 116-36.1. This fund shall be deemed an additional and alternative method of funding the Millennial Campus and not an exclusive one. To the extent that any general, special, or

local law is inconsistent with this section, it is declared inapplicable to this section."

Section 3. The title of Article 21B of Chapter 116 of the General Statutes reads as rewritten:

"The Centennial ~~Campus and~~ Campus, the Horace Williams ~~Campus~~ Campus, and the Millennial Campuses Financing Act."

Section 4. G.S. 116-198.31 reads as rewritten:

"§ *116-198.31. Purpose of Article.*

The purpose of this Article is to authorize the Board of Governors of The University of North Carolina to issue revenue bonds, payable from any leases, rentals, charges, fees, and other revenues but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision thereof, to pay the cost, in whole or part, of buildings, structures, or other facilities for the Centennial Campus, located at North Carolina State University at ~~Raleigh and~~ Raleigh, for the Horace Williams Campus located at the University of North Carolina at Chapel ~~Hill.~~ Hill, and for any Millennial Campus as defined by G.S. 116-198.33(4b)."

Section 5. G.S. 116-198.33 reads as rewritten:

"§ *116-198.33. Definitions.*

As used in this Article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) The word 'Board' shall mean the Board of Governors of The University of North Carolina.

(2) The word 'cost' as applied to any project, shall include the cost of acquisition or construction; the cost of acquisition of all property, both real and personal, or interests therein; the cost of demolishing, removing, or relocating any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be removed or relocated; the cost of all labor, materials, equipment and furnishings, financing charges, interest prior to and during construction and, if deemed advisable by the Board, for a period not exceeding one year after completion of such construction; provisions for working capital, reserves for debt service and for extensions, enlargements, additions, and improvements; cost of engineering, financial, and legal services, plans, specifications, studies, surveys, and estimates of cost and of revenues; administrative expenses; expenses necessary or incident to determining the feasibility or practicability of constructing the project; and such other expenses as may be necessary or incident to acquisition or construction with respect to the project or to the placing of the project in operation. Any obligation or expense incurred by the Board prior to the issuance of bonds under the provisions of this Article in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(3) The word 'Institution' shall mean North Carolina State University at Raleigh and the University of North Carolina at Chapel ~~Hill.~~ Hill, or a constituent institution of The University of North Carolina with a Millennial Campus as defined by G.S. 116-198.33(4b).

(4) The term 'Centennial Campus' means all of the following properties:

a. The real property and appurtenant facilities bounded by Blue Ridge Road, Hillsborough Street, Wade Avenue, and Interstate 440 that are the sites of the College of Veterinary Medicine, the University Club, and the Agricultural Turf Grass Management Program.

b. The real property and appurtenant facilities that are the former Dix Hospital properties and other contiguous parcels of property that are adjacent to Centennial Boulevard.

c. All other real property and appurtenant facilities designated by the Board of Governors as part of the Centennial Campus. The properties designated by the Board of Governors do not have to be contiguous with the Centennial Campus to be designated as part of that Campus.

(4a) The term 'Horace Williams Campus' means all of the following properties:

a. The real property and appurtenant facilities left to the University of North Carolina at Chapel Hill by the Will of Henry Horace Williams.

b. All other real property and appurtenant facilities designated by the Board of Governors as part of the Horace Williams Campus. The properties designated by the Board of Governors do not have to be contiguous with the Horace Williams Campus to be designated as part of that Campus.

(4b) The term 'Millennial Campus' means all real property and appurtenant facilities designated by the Board of Governors as part of a Millennial Campus of a constituent institution of The University of North Carolina other than North Carolina State University or the University of North Carolina at Chapel Hill. The properties designated by the Board of Governors do not have to be contiguous with the constituent institution to be designated as part of the institution's Millennial Campus.

(5) The term 'existing facilities' shall mean buildings and facilities, then existing, any part of the revenues of which are pledged under the provisions of any resolution authorizing the issuance of revenue bonds hereunder to the payment of such bonds.

(6) The word 'project' shall mean and shall include any one or more buildings, structures, administration buildings,

libraries, research or instructional facilities, housing maintenance, storage, or utility facilities, and any facilities related thereto or required or useful for conducting of research or the operation of the Centennial ~~Campus or~~ Campus, the Horace Williams Campus, or of a Millennial Campus as defined by G.S. 116-198.33(4b), including roads, water, sewer, power, gas, greenways, parking, or any other support facilities essential or convenient for the orderly conduct of the Centennial ~~Campus or~~ Campus, the Horace Williams ~~Campus~~ Campus, or a Millennial Campus, respectively.

(7) The word 'revenues' shall mean all or any part of the rents, leases, charges, fees, and other income revenues derived from or in connection with any project or projects and existing facilities."

Section 6. G.S. 116-198.34 reads as rewritten:

"§ *116-198.34. General powers of Board of Governors.*

The Board may exercise any one or more of the following powers:

(1) To determine the location and character of any project or projects, and to acquire, construct, and provide the same, and to maintain, repair, and operate, and to enter into contracts for the management, lease, use, or operation of all or any portion of any project or projects and any existing facilities.

(2) To issue revenue bonds as hereinafter provided to pay all or any part of the cost of any project or projects, and to fund or refund the same.

(3) To fix and revise from time to time and charge and collect rates, fees, rents, and charges for the use of, and for the services furnished by, all or any portion of any project or projects.

(4) To establish and enforce, and to agree through any resolution or trust agreement authorizing or securing bonds under this Article to make and enforce, rules and regulations for the use of and services rendered by any project or projects and any existing facilities, to provide for the maximum use of any project or projects and any existing facilities.

(5) To acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder and to lease all or any part of any project or projects and any existing facilities upon such terms and conditions as the Board determines, subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

Notwithstanding G.S. 143-341 and Chapter 146 of the General Statutes, a disposition by easement, lease, or rental agreement of space in any building on the Centennial ~~Campus or~~ Campus, on the Horace Williams ~~Campus~~

Campus, or on a Millennial Campus made for a period of 10 years or less shall not require the approval of the Governor and the Council of State. All other acquisitions and dispositions made under this subdivisionare subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

(6) To employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment in connection with any project or projects and existing facilities, and to fix their compensation.

(7) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article.

(8) To receive and accept from any federal, State, or other public agency and any private agency, person or other entity donations, loans, grants, aid, or contributions of any money, property, labor, or other things of value for any project or projects, and to agree to apply and use the same in accordance with the terms and conditions under which the same are provided.

(8a) To designate the real property and appurtenant facilities to be included as part of the Centennial ~~Campus or~~ Campus, the Horace Williams ~~Campus.~~ Campus, or a Millennial Campus.

(8b) Acting on recommendation made by the President of The University of North Carolina after consultation by the President with the Chancellor and the Board of Trustees of a constituent institution, to designate real property held by, or to be acquired by, a constituent institution as a 'Millennial Campus' of the institution. That designation shall be based on an express finding by the Board of Governors that the institution desiring to create a 'Millennial Campus' has the administrative and fiscal capability to create and maintain such a campus and provided further, that the Board of Governors has found that the creation of the constituent institution's 'Millennial Campus' will enhance the institution's research, teaching, and service missions as well as enhance the economic development of the region served by the institution. Upon formal request by the constituent institutions, the Board of Governors may authorize two or more constituent institutions which meet the requirements of this section to create a joint Millennial Campus.

(9) To do all acts and things necessary or convenient to carry out the powers granted by this Article."

Section 7. G.S. 116-198.35 reads as rewritten:

"*§ 116-198.35. Issuance of bonds and bond anticipation notes.*

The Board is hereby authorized to issue, subject to the approval of the Director of the Budget, at one time or from time to time, revenue bonds of the Board for the purpose of paying all or any part of the cost of acquiring, constructing, or providing any project or projects on the Centennial ~~Campus or~~ Campus, on the Horace Williams ~~Campus.~~ Campus, or on a Millennial Campus. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of the bonds. The Board shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any bonds issued under the provisions of this Article, all such bonds shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such bonds or any trust agreement securing the same. The bonds may be issued in coupon or registered form or both or as book-entry bonds, as the Board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Board may sell such bonds in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the Board.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. Unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, if the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Board

may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Except as herein otherwise provided, bonds may be issued under this Article and other powers vested in the Board under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

The Board may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing bonds for the financing of projects covered under this section. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of bonds.

The Board is hereby authorized to issue, subject to the approval of the Director of the Budget, at one time or from time to time, revenue bond anticipation notes of the Board in anticipation of the issuance of bonds authorized pursuant to the provisions of this Article. The principal of and the interest on such notes shall be payable solely from the proceeds of bonds or renewal notes, or, in the event bond or renewal note proceeds are not available, any available revenues of the project or projects for which such bonds shall have been authorized. The notes of each issue shall be dated, shall mature at such time or times not exceeding two years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of the notes. The Board shall determine the form and the manner of execution of the notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the notes and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any notes or coupons shall cease to be such officer before the delivery of such notes, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all such notes shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such notes or

any trust agreement securing the bonds in anticipation of which such notes are being issued. The notes may be issued in coupon or registered form or both or as book entry notes, as the Board may determine, and provision may be made for the registration of any coupon notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon notes of any notes registered as to both principal and interest. The Board may sell such notes in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the Board.

The proceeds of the notes of each issue shall be used solely for the purpose for which the bonds in anticipation of which such notes are being issued shall have been authorized, and such note proceeds shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such notes or bonds or in the trust agreement securing such bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the bonds in anticipation of which such notes are being authorized, may also contain such limitations upon the issuance of additional notes as the Board may deem proper, and such additional notes shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement. The Board may also provide for the replacement of any notes which shall become mutilated or be destroyed or lost.

Except as herein otherwise provided, notes may be issued under this Article and other powers vested in the Board under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

Unless the context shall otherwise indicate, the word 'bonds' wherever used in this Article, shall be deemed and construed to include the words 'bond anticipation notes.'"

Section 8. G.S. 116-198.37 reads as rewritten:

"*§ 116-198.37. Fixing fees, rents, and charges; sinking fund.*

For the purpose of aiding in the acquisition, construction, or provision of any project and the maintenance, repair, and operation of any project or any existing facilities, the Board is authorized to fix, revise from time to time, charge, and collect such fee or fees for such privileges and services and in such amount or amounts as the Board shall determine, and to fix, revise from time to time, charge, and collect other fees, rents, and charges for the use of and for the services furnished or to be furnished by any project or projects and any existing facilities, or any portion thereof, and to contract with any person, partnership, association, or corporation for the lease, use, occupancy, or operation of any project or projects and any existing facilities, or any part thereof, and to fix the terms, conditions, fees, rents, and charges for any such lease, use, occupancy, or operation. So long as bonds issued hereunder and payable therefrom are

outstanding, such fees, rents, and charges shall be so fixed and adjusted, with relation to other revenues available therefor, as to provide funds pursuant to the requirements of the resolution or trust agreement authorizing or securing such bonds at least sufficient with such other revenues, if any, (i) to pay the cost of maintaining, repairing, and operating any project or projects and any existing facilities any part of the revenues of which are pledged to the payment of the bonds issued for such project or projects, (ii) to pay the principal of and the interest on such bonds as the same shall become due and payable, and (iii) to create and maintain reserves for such purposes. Any surplus funds remaining after application to the purposes mentioned in (i), (ii), and (iii), above, shall be held in trust and applied by the Board to the development of the Centennial ~~Campus or~~ Campus, the Horace Williams ~~Campus~~ Campus, or a Millennial Campus, as applicable. Such fees, rents, and charges shall not be subject to supervision or regulation by any other commission, board, bureau, or agency of the State. A sufficient amount of the revenues, except such part thereof as may be necessary to pay such cost of maintenance, repair, and operation and to provide such reserves therefor and for renewals, replacements, extensions, enlargements, and improvements as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to and charged with the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the fees, rents, and charges and other revenues or other moneys so pledged and thereafter received by the Board shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Board, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Board. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of the trust agreement securing the same."

Section 9. G.S. 146-30(b1) reads as rewritten:

"(b1) Notwithstanding the other provisions of this section, no service charge into the State Land Fund shall be deducted from or levied against the proceeds of any disposition by lease, rental, or easement of State lands that are designated as part of the Centennial Campus as defined by ~~G.S. 116-198.33(4) or~~ G.S. 116-198.33(4), that are designated as part of the Horace Williams Campus as defined by ~~G.S. 116-198.33(4a).~~ G.S. 116-198.33(4a), or that are designated as part of a Millennial Campus as defined by G.S. 116-198.33(4b).

All net proceeds of those dispositions are governed by G.S. 116-36.5."

Section 10. G.S. 66-58(b) reads as rewritten:

"(b) The provisions of subsection (a) of this section shall not apply to:

(1) Counties and municipalities.

(2) The Department of Health and Human Services or the Department of Agriculture and Consumer Services for the sale of serums, vaccines, and other like products.

(3) The Department of Administration, except that the agency shall not exceed the authority granted in the act creating the agency.

(4) The State hospitals for the mentally ill.

(5) The Department of Health and Human Services.

(6) The North Carolina School for the Blind at Raleigh.

(6a) The Office of Juvenile Justice.

(7) The North Carolina Schools for the Deaf.

(8) The Greater University of North Carolina with regard to its utilities and other services now operated by it nor to the sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to classroom work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled students nor to the sale of meals or merchandise to persons attending meetings or conventions as invited guests nor to the operation by the University of North Carolina of an inn or hotel and dining and other facilities usually connected with a hotel or inn, nor to the hospital and Medical School of the University of North Carolina, nor to the Coliseum of North Carolina State University at Raleigh, and the other schools and colleges for higher education maintained or supported by the State, nor to the Centennial Campus of North Carolina State University at Raleigh, nor to the Horace Williams Campus of the University of North Carolina at Chapel Hill, nor to a Millennial Campus of a constituent institution of The University of North Carolina, nor to the comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of the University of North Carolina.

(9) The Department of Environment and Natural Resources, except that the Department shall not construct, maintain, operate or lease a hotel or tourist inn in any park over which it has jurisdiction. The North Carolina Wildlife

Resources Commission may sell wildlife memorabilia as a service to members of the public interested in wildlife conservation.

(10) Child-caring institutions or orphanages receiving State aid.

(11) Highlands School in Macon County.

(12) The North Carolina State Fair.

(13) Rural electric memberships corporations.

(13a) State Farm Operations Commission.

(13b) The Department of Agriculture and Consumer Services with regard to its lessees at farmers' markets operated by the Department.

(13c) The Western North Carolina Agricultural Center.

(13d) Agricultural centers or livestock facilities operated by the Department of Agriculture and Consumer Services.

(14) Nothing herein contained shall be construed to prohibit the engagement in any of the activities described in subsection (a) hereof by a firm, corporation or person who or which is a lessee of space only of the State of North Carolina or any of its departments or agencies; provided the leases shall be awarded by the Department of Administration to the highest bidder, as provided by law in the case of State contracts and which lease shall be for a term of not less than one year and not more than five years.

(15) The State Department of Correction is authorized to purchase and install automobile license tag plant equipment for the purpose of manufacturing license tags for the State and local governments and for such other purposes as the Department may direct.

The Commissioner of Motor Vehicles, or such other authority as may exercise the authority to purchase automobile license tags is hereby directed to purchase from, and to contract with, the State Department of Correction for the State automobile license tag requirements from year to year.

The price to be paid to the State Department of Correction for the tags shall be fixed and agreed upon by the Governor, the State Department of Correction, and the Motor Vehicle Commissioner, or such authority as may be authorized to purchase the supplies.

(16) Laundry services performed by the Department of Correction may be provided only for agencies and instrumentalities of the State which are supported by State funds and for county or municipally controlled and supported hospitals presently being served by the Department of Correction, or for which services have been contracted or applied for in writing, as of May 22, 1973. In addition to the prior sentence, laundry services performed by the Department of Correction may be

provided for the Governor Morehead School and the North Carolina School for the Deaf.

The services shall be limited to wet-washing, drying and ironing of flatwear or flat goods such as towels, sheets and bedding, linens and those uniforms prescribed for wear by the institutions and further limited to only flat goods or apparel owned, distributed or controlled entirely by the institutions and shall not include processing by any dry-cleaning methods; provided, however, those garments and items presently being serviced by wet-washing, drying and ironing may in the future, at the election of the Department of Correction, be processed by a dry-cleaning method.

(17) The North Carolina Global TransPark Authority or a lessee of the Authority.

(18) The activities and products of private enterprise carried on or manufactured within a State prison facility pursuant to G.S. 148-70.

(19) The North Carolina Justice Academy.

(20) The Department of Transportation, or any nonprofit lessee of the Department, for the sale of books, crafts, gifts, and other tourism-related items at visitor centers owned by the Department."

Section 11. G.S. 116-209.25 reads as rewritten:

"§ *116-209.25. Parental Savings Trust Fund.*

(a) Policy. -- The General Assembly of North Carolina hereby finds and declares that encouraging parents and other interested parties to save for the postsecondary education expenses of eligible students is fully consistent with and furthers the long-established policy of the State to encourage, promote, and assist education as more fully set forth in G.S. 116-201(a).

(b) Parental Savings Trust Fund. -- There is established a parental savings trust fund to be administered by the State Education Assistance Authority to enable qualified parents to save funds to meet the costs of the postsecondary education expenses of eligible students.

(c) Contributions to the Trust Funds. -- The Authority is authorized to accept, hold, invest, and disburse contributions, and interest earned on such contributions, from qualified parents and other interested parties as trustee ~~in~~ of the Parental Savings Trust Fund. ~~The contributions to the Parental Savings Trust Fund shall be held by the Authority in a separate institutional trust fund and, as such, contributions to the trust fund shall be invested by the State Treasurer as authorized in G.S. 147-69.2(b)(1) through (6) and the applicable provisions of G.S. 147-69.3.~~ The Authority shall hold all contributions to the Parental Savings Trust Fund, and any earnings thereon, in a separate trust fund and shall invest the contributions in accordance with this section. The assets of the Parental Savings Trust Fund shall at all times be preserved, invested, and expended solely for the purposes of the trust fund and shall be held in trust for

the parents and other interested parties and their designated beneficiaries. ~~The~~ Neither the contributions to the Parental Savings Trust ~~Fund~~ Fund, nor the earnings thereon, shall ~~not~~ be considered State moneys, assets of the State, or State revenue for any purpose.

(c1) Investments. -- The Authority shall determine an appropriate investment strategy for the Parental Savings Trust Fund. The strategy may include a combination of fixed income assets and preferred or common stocks issued by any company incorporated, or otherwise located within or without the United States, or other appropriate investment instruments to achieve long-term return through a combination of capital appreciation and current income. The Authority may deposit all or any portion of the Parental Savings Trust Fund for investment either with the State Treasurer, or in the individual, common, or collective trust funds of an investment manager or managers that meet the requirements of this subsection. Contributions to the Parental Savings Trust Fund on deposit with the State Treasurer shall be invested by the State Treasurer as authorized in G.S. 147-69.2(b)(1) through (6) and the applicable provisions of G.S. 147-69.3. Contributions to the Parental Savings Trust Fund may be invested in the individual, common, or collective trust funds of an investment manager provided that the investment manager meets both of the following conditions:

(1) The investment manager has assets under management of at least one hundred million dollars ($100,000,000) at all times.

(2) The investment manager is subject to the jurisdiction and regulation of the United States Security and Exchange Commission.

(d) Administration of the Trust Fund. -- The Authority is authorized to develop and perform all functions necessary and desirable to administer the Parental Savings Trust Fund and to provide such other services as the Authority shall deem necessary to facilitate participation in the Parental Savings Trust Fund. The Authority is further authorized to obtain the services of such investment advisors or program managers as may be necessary for the proper administration and marketing and investment strategy for the Parental Savings Trust Fund.

(e) Loan Program. -- The Authority is authorized to develop and administer a loan program in conjunction with the Parental Savings Trust Fund to provide loan assistance to qualified parents and interested parties in order to facilitate the postsecondary education of eligible students. All funds appropriated to, or otherwise received by the Authority for loans under this section, all funds received as repayment of such loans, and all interest earned on these funds shall be placed in an institutional trust fund. This institutional trust fund may be used only for loans made to qualified parents and interested parties who contributed to the Parental Savings Trust Fund and administrative costs associated with the recovery of funds advanced under this loan program.

(f) Limitations. -- Nothing in this section shall be construed to create any obligation of the Authority, the State Treasurer, the State, or any agency or instrumentality of the State to guarantee for the benefit of any parent, other interested party, or designated beneficiary the rate of return or other return for any contribution to the Parental Savings Trust Fund and the payment of interest or other return on any contribution to the Parental Savings Trust Fund."

Section 12. Section 11 of this act becomes effective July 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 10:15 a.m. on the 2nd day of August, 2000.

H.B. 979 **SESSION LAW 2000-178**

AN ACT TO MODIFY THE RIGHTS OF A DECEDENT'S SPOUSE.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 30 of the General Statutes is repealed.

Section 2. Chapter 30 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 1A.

"Elective Share.

"§ 30-3.1. Right of elective share.

(a) Elective Share. -- The surviving spouse of a decedent who dies domiciled in this State has a right to claim an 'elective share', which means an amount equal to (i) the applicable share of the Total Net Assets, as defined in G.S. 30-3.2(c), less (ii) the value of Property Passing to Surviving Spouse, as defined in G.S. 30-3.3(a). The applicable share of the Total Net Assets is as follows:

(1) If the decedent is not survived by any lineal descendants, one-half of the Total Net Assets.

(2) If the decedent is survived by one child, or lineal descendants of one deceased child, one-half of the Total Net Assets.

(3) If the decedent is survived by two or more children, or by one or more children and the lineal descendants of one or more deceased children, or by the lineal descendants of two or more deceased children, one-third of the Total Net Assets.

(b) Reduction of Applicable Share. -- In those cases in which the surviving spouse is a second or successive spouse, and the decedent has one or more lineal descendants surviving by a prior marriage but there are no lineal descendants surviving by the surviving spouse, the applicable share as determined in subsection (a) of this section shall be reduced by one-half.

(c) Death Taxes. -- Death taxes shall be taken into account as a claim against the estate in determining Total Net Assets only to the extent that such taxes are increased because the assets received by the surviving spouse do not qualify for the federal estate tax marital deduction pursuant to section 2056 of the Code or similar provisions under the laws of any other applicable taxing jurisdiction.

"§ *30-3.2. Definitions.*

(a) 'Code' means the Internal Revenue Code in effect at the time of the decedent's death.

(b) 'Death taxes' means any estate, inheritance, succession, and similar taxes imposed by any taxing authority, reduced by any applicable credits against those taxes.

(c) 'Nonadverse trustee' means a trustee who would be deemed nonadverse under section 672 of the Code.

(d) 'Total Net Assets' means, after the payment or provision for payment of the decedent's funeral expenses, year's allowances to persons other than to the surviving spouse, debts, claims, and administration expenses, the sum of the following:

(1) All property to which the decedent had legal and equitable title immediately prior to death;

(2) All property received by the decedent's personal representative by reason of the decedent's death, other than wrongful death proceeds;

(3) One-half of the value of any property held by the decedent and the surviving spouse as tenants by the entirety, or as joint tenants with rights of survivorship;

(4) The entire value of any interest in property held by the decedent and another person, other than the surviving spouse, as joint tenants with right of survivorship, except to the extent that contribution can be proven by clear and convincing evidence;

(5) The value of any property which would be included in the taxable estate of the decedent pursuant to sections 2033, 2035, 2036, 2037, 2038, 2039, 2040, or 2042 of the Code;

(6) Any donative transfers of property made by the decedent to donees other than the surviving spouse within six months of the decedent's death, excluding:

a. Any gifts within the annual exclusion provisions of section 2503 of the Code;

b. Any gifts to which the surviving spouse consented. A signing of a deed, or income or gift tax return reporting such gift shall be considered consent; and

c. Any gifts made prior to marriage;

(7) Any proceeds of any individual retirement account, pension or profit-sharing plan, or any private or governmental retirement plan or annuity of which the decedent controlled the designation of beneficiary, excluding any benefits under the federal social security system;

(8) Any other Property Passing to Surviving Spouse under G.S. 30-3.3; and

(9) In case of overlapping application of the same property under more than one provision, the property shall be included only once under the provision yielding the greatest value.

"*§ 30-3.3. Property Passing to Surviving Spouse.*

(a) Property Passing to Surviving Spouse. -- For purposes of this Article, 'Property Passing to Surviving Spouse' means the sum of the following:

(1) One-half of the value of any interest in property held by the decedent and the surviving spouse as tenants by the entirety or as joint tenants with rights of survivorship;

(2) The value of any interest in property (outright or in trust, including any interest subject to a general power of appointment held by the surviving spouse, as defined in section 2041 of the Code) devised by the decedent to the surviving spouse, or which passes to the surviving spouse by intestacy, or by beneficiary designation, or by exercise of or in default of the exercise of the decedent's testamentary general or limited power of appointment, or by operation of law or otherwise by reason of the decedent's death, excluding any benefits under the federal social security system;

(3) Any year's allowance awarded to the surviving spouse;

(4) The value of any property renounced by the surviving spouse;

(5) The value of the surviving spouse's interest, outright or in trust, in any life insurance proceeds on the life of the decedent;

(6) The value of any interest in property, outright or in trust, transferred from the decedent to the surviving spouse during the lifetime of decedent for which (i) a gift tax return is timely filed reporting such gift, or (ii) the surviving spouse signs a statement acknowledging such a gift. For purposes of this subdivision, any gift to the surviving spouse by the decedent of the decedent's interest in any property held by the decedent and the surviving spouse as tenants by the entirety or as joint tenants with right of survivorship shall be valued at one-half of the entire value of that interest in property at the time the gift is made; and

(7) The entire value of any property held in trust for the exclusive benefit of the surviving spouse during the surviving spouse's lifetime, where the trust requires a Nonadverse Trustee to utilize the principal and income of the trust for the support and maintenance of the surviving spouse.

(b) Death Taxes. -- The value of Property Passing to Surviving Spouse shall be reduced by any death taxes that are a charge against

or apportioned against the surviving spouse on property interests included in Property Passing to Surviving Spouse.

(c) No Duplication. -- In case of overlapping application of the same property under more than one provision, the property shall be included only once, under the provision yielding the greatest value.

"§ 30-3.4. *Procedure for determining the elective share.*

(a) Exercisable Only During Lifetime. -- The right of the surviving spouse to file a claim for an elective share must be exercised during the lifetime of the surviving spouse, by the surviving spouse, the surviving spouse's agent under a power of attorney, or the guardian of the surviving spouse's estate. If a surviving spouse dies before the claim for an elective share has been settled, the surviving spouse's personal representative shall succeed to the surviving spouse's rights to an elective share.

(b) Time Limitations. -- A claim for an elective share must be made within six months after the issuance of letters testamentary or letters of administration by (i) filing a petition with the clerk of superior court of the county in which the primary administration of the decedent's estate lies, and (ii) mailing or delivering a copy of that petition to the personal representative of the decedent's estate. A surviving spouse's incapacity shall not toll the six-month period of limitations.

(c) Time for Hearing. -- Unless waived by the personal representative and the surviving spouse, the clerk shall set the matter for hearing no earlier than two months and no later than six months after the filing of the petition. However, the clerk may extend the time of hearing as the clerk sees fit. The surviving spouse shall give notice of the hearing to the personal representative, and to any person described in G.S. 30-3.5 who may be required to contribute toward the satisfaction of the elective share.

(d) Preparation of Tax Form. -- In every case in which a petition to determine an elective share has been filed, and within two months of the filing of the petition, the personal representative shall prepare and submit to the clerk a proposed Form 706, federal estate tax return, for the estate, regardless of whether that form is required to be filed with the Internal Revenue Service. The clerk may extend the time for submission of the proposed Form 706 as the clerk sees fit.

(e) Valuation. -- The valuation of interests in property for purposes of G.S. 30-3.2 and G.S. 30-3.3 shall be determined as follows:

(1) Basic principles. -- Each interest shall be valued at its fair market value, reduced by all liens, claims, or encumbrances against the interest. For interests passing at the decedent's death, valuation shall be as of the date of death, and for interests transferred during the decedent's lifetime, valuation shall be as of the date of transfer.

(2) Valuation of partial and contingent interests in property. -- The valuation of interests in property, outright or in trust, which are limited to commence or terminate upon the death of one or more persons, upon the expiration of a period of

time, or upon the occurrence of one or more contingencies, shall be determined by computations based upon the mortuary and annuity tables set forth in G.S. 8-46 and G.S. 8-47, and upon the basis of six percent (6%) of the gross value of the underlying property in which those interests are limited. However, in valuing interests passing to the surviving spouse, the following special rules apply:

a. To the extent that the interest is dependent upon the exercise of discretion by a fiduciary, the interest shall have no value unless the spouse is serving as that fiduciary and the power to distribute the trust property constitutes a general power of appointment held by the spouse, as defined in section 2041 of the Code or the fiduciary is a Nonadverse Trustee required to utilize the income and principal for the exclusive benefit of the surviving spouse during the surviving spouse's lifetime;

b. To the extent that the interest is dependent upon the occurrence of any contingency that is not subject to the control of the surviving spouse and that is not subject to valuation by reference to the mortuary and annuity tables set forth in G.S. 8-46 and G.S. 8-47, the contingency will be conclusively presumed to result in the lowest possible value passing to the surviving spouse. However, a life estate or income interest that will terminate only upon the earlier of the surviving spouse's death or remarriage will be valued without regard to the possibility of termination upon remarriage; and

c. To the extent that the valuation of an interest is dependent upon the life expectancy of the surviving spouse, that life expectancy shall be conclusively presumed to be no less than 10 years, regardless of the actual attained age of the surviving spouse at the decedent's death.

(3) Determination of fair market value. -- The fair market value of each asset comprising Total Net Assets shall be determined as follows:

a. Probate assets and assets passing to spouse. -- The value of each probate asset and Property Passing to Surviving Spouse, other than assets held in trust, shall be established by the good faith agreement of the surviving spouse and the personal representative, unless either (i) the surviving spouse is the personal representative, or (ii) the clerk determines that the personal representative may not be able to represent the estate adversely to the surviving spouse.

b. Trust assets. -- The value of each trust asset shall be established by good faith agreement of the surviving spouse and the trustee, unless either (i) the surviving spouse is the trustee, or (ii) the clerk determines that the

trustee may not be able to represent the trust adversely to the surviving spouse.

c. Other assets. -- The value of any other asset shall be established by the good faith agreement of the surviving spouse and each person described in G.S. 30-3.5 who may be required to contribute toward the satisfaction of the elective share because of that person's interest in the asset, unless the clerk determines that valuation under sub-subdivision d. of this subdivision is more appropriate.

d. Use of disinterested persons. -- If the value of any asset is not established by agreement, the clerk shall appoint one or more qualified and disinterested persons to determine a value of each asset. That determination of the value of an asset shall be final for the exclusive purposes of this Article.

(f) Findings and Conclusions. -- After notice and hearing, the clerk shall determine whether or not the surviving spouse is entitled to an elective share, and if so, the clerk shall then determine the elective share and shall order the personal representative to transfer that amount to the surviving spouse. The clerk's order shall recite specific findings of fact and conclusions of law in arriving at the decedent's Total Net Assets, Property Passing to Surviving Spouse, and the elective share.

(g) Appeals. -- Any party in interest may appeal from the decision of the clerk to the superior court. If an appeal is taken from the decision of the clerk, that appeal shall have the effect of staying the judgment and order of the clerk until the cause is heard and determined by the superior court upon the appeal taken. Upon an appeal taken from the clerk to the superior court, the judge may review the findings of fact by the clerk and may find the facts or take other evidence, but the facts found by the judge shall be final and conclusive upon any appeal to the Appellate Division.

"§ *30-3.5. Recovery of assets by personal representative.*

(a) Recovery of Assets. -- The personal representative is entitled to recover proportionately from all persons, other than the surviving spouse, receiving or in possession of any of the decedent's Total Net Assets a sufficient amount to enable the personal representative to pay the elective share. The apportionment shall be made in the proportion that the value of the interest of each person receiving or in possession of any of Total Net Assets bears to Total Net Assets, excluding any Property Passing to Surviving Spouse. The only persons subject to contribution to make up the elective share are (i) original recipients of property comprising the decedent's Total Net Assets, and subsequent gratuitous inter vivos donees or persons claiming by testate or intestate succession to the extent those persons have the property or its proceeds on or after the date of decedent's death, and (ii) a fiduciary, as to the property under the fiduciary's control at or after the time a fiduciary receives notice that a surviving spouse has claimed an

elective share. A fiduciary shall not be considered to have notice until it receives notice at its address as shown in the decedent's estate papers in the clerk's office or, if there are no such papers or no such address is shown in those papers, at the fiduciary's residence or the office of its registered agent.

The personal representative may withhold from any property of the decedent in his possession, distributable to any person subject to apportionment, the amount of the elective share apportioned to such person. If the property in possession of the personal representative and distributable to any person subject to apportionment is insufficient to satisfy the proportionate amount of the elective share determined to be due from that person, the personal representative may recover the deficiency from that person. If the property is not in possession of the personal representative, the personal representative may recover from the person the amount of the elective share apportioned to that person in accordance with this Article. If the personal representative cannot reasonably collect from any person subject to apportionment the amount of the elective share apportioned to that person, the amount not reasonably recoverable shall, with the approval of the clerk, be apportioned among the other persons who are subject to apportionment. The apportionment shall be made in the proportion that the value of the interest of each remaining person bears to the total value of the interests of all remaining persons.

(b) Standstill Order. -- After the filing of the petition demanding an elective share, either the personal representative or surviving spouse may request the clerk to issue an order that any recipients not dispose of any of the decedent's Total Net Assets pending the hearing. The decision to issue such an order shall be in the discretion of the clerk.

(c) Satisfaction of Liability. -- A person receiving or in possession of any of the decedent's Total Net Assets may pay his proportionate elective share liability with respect to that property by any of the following methods:

(1) Conveyance of the property included in the decedent's Total Net Assets;

(2) Payment of the value of his liability in cash or, upon agreement of the surviving spouse, other property; or

(3) Partial conveyance and partial payment under subdivisions (1) and (2) of this subsection, provided the value conveyed and paid is equal to his liability.

(d) Expenses. -- The expenses reasonably incurred by the personal representative in connection with the appraisal or recovery of assets shall be apportioned as provided for the elective share under this Article. If the personal representative finds that it is inequitable to apportion the expenses because those expenses were incurred because of the fault of one or more persons subject to apportionment, the personal representative may direct other more equitable apportionment, with the approval of the clerk.

(e) Bond. -- If property held by the personal representative is distributed prior to final apportionment of the elective share, the

personal representative may require the distributee to provide a bond or other security for the apportionment liability in the form and amount prescribed by the personal representative, with the approval of the clerk.

"*§ 30-3.6. Waiver of rights.*

(a) The right of a surviving spouse to claim an elective share may be waived, wholly or partially, before or after marriage, with or without consideration, by a written waiver signed by the surviving spouse.

(b) A waiver is not enforceable if the surviving spouse proves that:

(1) The waiver was not executed voluntarily; or

(2) The surviving spouse was not provided a fair and reasonable disclosure of the property and financial obligations of the decedent, unless the surviving spouse waived, in writing, the right to that disclosure."

Section 3. G.S. 29-30 reads as rewritten:

"*§ 29-30. Election of surviving spouse to take life interest in lieu of intestate share provided.*

(a) In lieu of the intestate share provided in G.S. 29-14 or ~~29-21,~~ G.S. 29-21, or of the elective share provided in G.S. 30-3.1, the surviving spouse of an intestate or the surviving spouse who ~~dissents from the will of a testator~~ has petitioned for an elective share shall be entitled to take as his or her intestate share or elective share a life estate in one third in value of all the real estate of which the deceased spouse was seised and possessed of an estate of inheritance at any time during coverture, except that real estate as to which the surviving spouse:

(1) Has waived his or her rights by joining with the other spouse in a conveyance thereof, or

(2) Has release or quitclaimed his or her interest therein in accordance with G.S. 52-10, or

(3) Was not required by law to join in conveyance thereof in order to bar the elective life estate, or

(4) Is otherwise not legally entitled to the election provided in this section.

(b) Regardless of the value thereof and despite the fact that a life estate therein might exceed the fractional limitation provided for in subsection (a), the life estate provided for in subsection (a) shall at the election of the surviving spouse include a life estate in the usual dwelling house occupied by the surviving spouse at the time of the death of the deceased spouse if such dwelling house were owned by the deceased spouse at the time of his or her death, together with the outbuildings, improvements and easements thereunto belonging or appertaining, and lands upon which situated and reasonably necessary to the use and enjoyment thereof, as well as a fee simple ownership in the household furnishings therein.

(c) The election provided for in subsection (a) shall be made by the filing of a notice thereof with the clerk of the superior court of the county in which the administration of the estate is pending, or, if no

administration is pending, then with the clerk of the superior court of any county in which the administration of the estate could be commenced. Such election shall be made:

(1) At any time within one month after the expiration of the time fixed for the filing of ~~a dissent,~~ the petition for elective share under Article 1A of Chapter 30, or

(2) In case of intestacy, then within 12 months after the death of the deceased spouse if letters of administration are not issued within that period, or

(3) If letters of administration are issued within 12 months after the date of the death of the deceased spouse, then within one month after the expiration of the time limited for filing claims against the estate, or

(4) If litigation that affects the share of the surviving spouse in the estate is pending, then within such reasonable time as may be allowed by written order of the clerk of the superior court.

The notice of election shall:

(1) Be directed to the clerk with whom filed;

(2) State that the surviving spouse making the same elects to take under this section rather than under the provisions of ~~G.S. 29-14 or 29-21,~~ G.S. 29-14, 29-21, or 30-3.1, as applicable;

(3) Set forth the names of all heirs, devisees, legatees, personal representatives and all other persons in possession of or claiming an estate or an interest in the property described in subsection (a); and

(4) Request the allotment of the life estate provided for in subsection (a).

The notice of election may be in person, or by attorney authorized in a writing executed and duly acknowledged by the surviving spouse and attested by at least one witness. If the surviving spouse is a minor or an incompetent, the notice of election may be executed and filed by a general guardian or by the guardian of the person or estate of the minor or incompetent spouse. If the minor or incompetent spouse has no guardian, the notice of election may be executed and filed by a next friend appointed by the clerk. The notice of election, whether in person or by attorney, shall be filed as a record of the court, and a summons together with a copy of the notice shall be served upon each of the interested persons named in the notice of election.

(d) In case of election to take a life estate in lieu of an intestate ~~share,~~ share or elective share, as provided in either G.S. 29-14, 29-21, or ~~30-3(a),~~ 30-3.3(a), the clerk of superior court, with whom the notice of election has been filed, shall summon and appoint a jury of three disinterested persons who being first duly sworn shall promptly allot and set apart to the surviving spouse the life estate provided for in subsection (a) and make a final report of such action to the clerk.

(e) The final report shall be filed by the jury not more than 60 days after the summoning and appointment thereof, shall be signed by all jurors, and shall describe by metes and bounds the real estate in which the surviving spouse shall have been allotted and set aside a life estate. It shall be filed as a record of court and a certified copy thereof shall be filed and recorded in the office of the register of deeds of each county in which any part of the real property of the deceased spouse, affected by the allotment, is located.

(f) In the election and procedure to have the life estate allotted and set apart provided for in this section, the rules of procedure relating to partition proceedings shall apply except insofar as the same would be inconsistent with the provisions of this section.

(g) Neither the household furnishings in the dwelling house nor the life estates taken by election under this section shall be subject to the payment of debts due from the estate of the deceased spouse, except those debts secured by such property as follows:

(1) By a mortgage or deed of trust in which the surviving spouse has waived his or her rights by joining with the other spouse in the making thereof; or

(2) By a purchase money mortgage or deed of trust, or by a conditional sales contract of personal property in which title is retained by the vendor, made prior to or during the marriage; or

(3) By a mortgage or deed of trust made prior to the marriage; or

(4) By a mortgage or deed of trust constituting a lien on the property at the time of its acquisition by the deceased spouse either before or during the marriage.

(h) If no election is made in the manner and within the time provided for in subsection (c) the surviving spouse shall be conclusively deemed to have waived his or her right to elect to take under the provisions of this section, and any interest which the surviving spouse may have had in the real estate of the deceased spouse by virtue of this section shall terminate."

Section 4. G.S. 30-15 reads as rewritten:

"*§ 30-15. When spouse entitled to allowance.*

Every surviving spouse of an intestate or of a testator, whether or not he has petitioned for an elective share, ~~dissented from the will,~~ shall, unless he has forfeited his right thereto, as provided by law, be entitled, out of the personal property of the deceased spouse, to an allowance of the value of ten thousand dollars ($10,000) for his support for one year after the death of the deceased spouse. Such allowance shall be exempt from any lien, by judgment or execution, acquired against the property of the deceased spouse, and shall, in cases of testacy, be charged against the share of the surviving spouse."

Section 5. G.S. 31-5.3 reads as rewritten:

"*§ 31-5.3. Will not revoked by marriage; dissent from will made prior to marriage.*

A will is not revoked by a subsequent marriage of the maker; and the surviving spouse may ~~dissent from such~~ petition for an elective share when there is a will made prior to the marriage in the same manner, upon the same conditions, and to the same extent, as a surviving spouse may ~~dissent from~~ petition for an elective share when there is a will made subsequent to marriage."

Section 6. G.S. 31A-1(b) reads as rewritten:

"(b) The rights lost as specified in subsection (a) of this section shall be as follows:

(1) All rights of intestate succession in the estate of the other spouse;
(2) All right to claim or succeed to a homestead in the real property of the other spouse;
(3) All right to ~~dissent from the will~~ petition for an elective share of the estate of the other spouse and take either the elective intestate share provided or the life interest in lieu thereof;
(4) All right to any year's allowance in the personal property of the other spouse;
(5) All right to administer the estate of the other spouse; and
(6) Any rights or interests in the property of the other spouse which by a settlement before or after marriage were settled upon the offending spouse solely in consideration of the marriage."

Section 7. G.S. 31C-3 reads as rewritten:

"*§ 31C-3. Disposition of community property upon death.*

Upon death of a married person, one half of the property to which this Chapter applies is the property of the surviving spouse and is not subject to testamentary disposition by the decedent or distribution under the laws or succession of this State. One half of that property is the property of the decedent and is subject to testamentary disposition or distribution under the laws of succession of this State. With respect to property to which this Chapter applies, the one half of the property of the decedent is not subject to the surviving spouse's right to ~~dissent from the will~~ petition for an elective share under the provisions of Article ~~1~~ 1A of Chapter 30, and is not subject to the right to elect a life estate under the provisions of Article 8 of Chapter 29."

Section 8. G.S. 84-5(2) reads as rewritten:

"(2) When any of the following acts are to be performed in connection with the fiduciary activities of such a corporation, said acts shall be performed for the corporation by a duly licensed attorney, not a salaried employee of the corporation, retained to perform legal services required in connection with the particular estate, trust or other fiduciary matter:

a. Offering wills for probate.
b. Preparing and publishing notice of administration to creditors.

c. Handling formal court proceedings.
d. Drafting legal papers or giving legal advice to spouses concerning ~~dissent from their spouses' will.~~ rights to an elective share under Article 1A of Chapter 30 of the General Statutes.
e. Resolving questions of domicile and residence of a decedent.
f. Handling proceedings involving year's allowances of widows and children.
g. Drafting deeds, notes, deeds of trust, leases, options and other contracts.
h. Drafting instruments releasing deeds of trust.
i. Drafting assignments of rent.
j. Drafting any formal legal document to be used in the discharge of the corporate fiduciary's duty.
k. In matters involving estate and inheritance taxes, gift taxes, and federal and State income taxes:
   1. Preparing and filing protests or claims for refund, except requests for a refund based on mathematical or clerical errors in tax returns filed by it as a fiduciary.
   2. Conferring with tax authorities regarding protests or claims for refund, except those based on mathematical or clerical errors in tax returns filed by it as a fiduciary.
   3. Handling petitions to the tax court.
l. Performing legal services in insolvency proceedings or before a referee in bankruptcy or in court.
m. In connection with the administration of an estate or trust:
   1. Making application for letters testamentary or letters or administration.
   2. Abstracting or passing upon title to property.
   3. Handling litigation relating to claims by or against the estate or trust.
   4. Handling foreclosure proceedings of deeds of trust or other security instruments which are in default."

Section 9. This act becomes effective January 1, 2001, and applies to estates of decedents dying on or after that date.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law upon approval of the Governor at 10:15 a.m. on the 2nd day of August, 2000.

S.B. 1472 **SESSION LAW 2000-179**

AN ACT TO PROVIDE REVENUE BOND FINANCING OF CERTAIN PRIVATE PROJECTS THAT PERFORM A PUBLIC

PURPOSE AND TO REORGANIZE THE INDUSTRIAL FACILITIES AND POLLUTION CONTROL FINANCING AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 115E of the General Statutes is recodified as Article 2 of Chapter 159D of the General Statutes.

Section 2. Chapter 159D of the General Statutes, as amended by this act, reads as rewritten:

"Chapter 159D.

"The North Carolina ~~Industrial and Pollution Control~~ Capital Facilities ~~Pool Program~~ Financing Act.

"ARTICLE 1.

"Industrial and Pollution Control Facilities Financing.

"*§ 159D-1. Short title.*

This ~~chapter~~ Article may be referred to as "The North Carolina Industrial and Pollution Control Facilities ~~Pool Program~~ Financing Act."

"*§ 159D-2. Legislative findings and purposes.*

(a) The General Assembly finds and determines that there exists in the State a critical condition of unemployment and a scarcity of employment opportunities; that the economic insecurity which results from such unemployment and scarcity of employment opportunities constitutes a serious menace to the safety, morals and general welfare of the entire State; that such unemployment and scarcity of employment opportunities have caused many workers and their families, including young adults upon whom future economic prosperity is dependent, to migrate elsewhere to find employment and establish homes; that such emigration has resulted in a reduced rate of growth in the tax base of the counties and other local governmental units of the State which impairs the financial ability of such counties and other local governmental units to support education and other local governmental services; that such unemployment results in obligations to grant public assistance and to pay unemployment compensation; that the aforesaid conditions can best be remedied by the attraction, stimulation, expansion and rehabilitation and revitalization of industrial and manufacturing facilities for industry in the State; and that there is a need to stimulate a larger flow of private investment funds into industrial building programs ~~into [in]~~ in the State.

(b) The General Assembly further finds and determines that the development and expansion of industry within the State, which are essential to the economic growth of the State, and to the full employment and prosperity of its people, are accompanied by the increased production and discharge of gaseous, liquid, and solid pollution and wastes which threaten and endanger the health, welfare and safety of the inhabitants of the State by polluting the air, land and waters of the State; that in order to reduce, control, and prevent such environmental pollution, it is imperative that action be taken at various

levels of government to require the provision of devices, equipment and facilities for the collection, reduction, treatment, and disposal of such pollution and wastes; that the assistance provided in this ~~Chapter,~~ Article, especially with respect to financing, is therefore in the public interest and serves a public purpose of the State in promoting the health, welfare and safety of the inhabitants of the State not only physically by collecting, reducing, treating and preventing environmental pollution but also economically by securing and retaining private industry thereby maintaining a higher level of employment and economic activity and stability.

~~(c) The General Assembly further finds that the federal government and its agencies have established, and may in the future establish, programs to promote gainful employment opportunity and the prevention and control of the pollution of air, land and waters of the United States through assistance in the financing of industrial and manufacturing facilities and pollution control facilities for industry and that the economical implementation of such programs in the State of North Carolina may require the financing of such facilities through a uniform statewide program.~~

~~(c1) The General Assembly further finds that certain provisions of federal tax law, economies of scale and credit market conditions make it advantageous for counties in North Carolina to be authorized to create a single authority with the legal capacity to combine separate financings into one or more pools that may be offered for sale on more favorable terms than any single financing standing alone.~~

~~(d) It is therefore declared to be the policy of the State to promote the right to gainful employment opportunity, private industry, the prevention and control of the pollution of the air, land and waters of the State, and the safety, morals and health of the people of the State, and thereby promote general welfare of the people of the State, by authorizing counties to create an authority which shall be a political subdivision and body corporate and politic of the State. This body is to be formed (i) to aid in the financing of industrial and manufacturing facilities for the purpose of alleviating unemployment or raising below average manufacturing wages by financing industrial and manufacturing facilities which provide job opportunities or pay better wages than those prevalent in the area and (ii) to aid in financing pollution control facilities for industry in connection with manufacturing and industrial facilities, in each case in connection with pool programs to effect such purposes; provided, however, that it is the policy of the State to finance only those facilities where there is a direct or indirect favorable impact on employment or an improvement in the degree of prevention or control of pollution commensurate with the size and cost of the facilities.~~

"§ *159D-3. Definitions.*

The following terms, whenever used or referred to in this ~~Chapter,~~ Article, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) ~~"Agency" shall include any agency, bureau, commission, department or instrumentality.~~
'Agency' means the North Carolina Capital Facilities Finance Agency, an agency of the State created pursuant to G.S. 159D-38 of the North Carolina Capital Facilities Finance Act, codified as Article 2 of this Chapter.

(2) 'Air pollution control facility' shall mean any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing gaseous industrial waste and other air pollutants, including recovery, treatment, neutralizing or stabilizing plants and equipment and their appurtenances, which shall have been certified by the agency having jurisdiction to be in furtherance of the purpose of abating or controlling atmospheric pollutants or contaminants.

(3) 'Authority' shall mean The North Carolina Industrial and Pollution Control Facilities Financing Authority, a political subdivision and body politic of the State, ~~which may be~~ created pursuant to the provisions of this ~~Chapter and which shall have the powers and authority specified in and by this Chapter.~~ Article.

(4) 'Bonds' shall mean revenue bonds ~~of an authority~~ issued under the provisions of this ~~Chapter.~~ Article.

(5) 'Cost' as applied to any project shall embrace all capital costs thereof, including the cost of construction, the cost of acquisition of all property, including rights in land and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all machinery and equipment, installation, start-up expenses, financing charges, interest prior to, during and for a period not exceeding one year after completion of construction, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, other expenses necessary or incident to determining the feasibility or practicability of such project, administrative and other expenses necessary or incident to the acquisition or construction of such project and the financing of the acquisition and construction thereof, including a reserve for debt services.

~~(6) 'Pool program" shall mean a program of the authority whereby separate financings for obligors are combined into one or more pools for purposes of sale. The credit of such financings or the pool may be enhanced by participation in a federal program, by a guaranty such as a surety bond, insurance or a letter of credit, by additional collateral or by~~

~~any other device, fund or guaranty by any person other than the authority, agency, under which payment of bonds or the obligations of an obligor under a financing agreement shall be guaranteed, in whole or in part, by such person or persons.~~

(7) 'Financing agreement' shall mean a written instrument establishing the rights and responsibilities of the ~~authority~~ agency and the operator with respect to a project financed by the issue of bonds.

(8) 'Governing body' shall mean the board, commission, council or other body in which the general legislative powers of any county or other political subdivision are vested.

(9) 'Obligor' shall mean collectively the operator and any others (including, but not by way of limitation, any other person, collateral device or fund that shall be obligated to pay) who or which shall be obligated under a financing agreement or guaranty agreement or other contract or agreement to make payments to, or for the benefit of, the holders of bonds of the ~~authority.~~ agency. Any requirement of an obligor may be satisfied by any one or more persons who are defined collectively by this ~~Chapter~~ Article as the obligor.

(10) 'Operator' shall mean the person entitled to the use or occupancy of a project.

(11) 'Political subdivision' shall mean any county, city, town, other unit of local government or any other governmental corporation, ~~agency,~~ entity, authority or instrumentality of the State now or hereafter existing.

(12) 'Pollution and pollutants' shall mean any noxious or deleterious substances in any air or waters of or adjacent to the State of North Carolina or affecting the physical, chemical or biological properties of any air or waters of or adjacent to the State of North Carolina in a manner and to an extent which renders or is likely to render such air or waters harmful or inimical to the public health, safety or welfare, or to animal, bird or aquatic life, or to the use of such air or waters for domestic, industrial or agricultural purposes or recreation.

(13) 'Project' shall mean any land, equipment or any one or more buildings or other structures, whether or not on the same site or sites, and any rehabilitation, improvement, renovation or enlargement of, or any addition to, any building or structure for use as or in connection with (i) any industrial project for industry which project may be any industrial or manufacturing factory, mill, assembly plant or fabricating plant, or freight terminal, or industrial research, development or laboratory facility or industrial processing facility for industrial or manufactured products,

or (ii) any pollution control project for industry which project may be any air pollution control facility, water pollution control facility, or solid waste disposal facility in connection with any factory, mill, plant, terminal or facility described in clause (i) of this subdivision, or (iii) any combination of projects mentioned in clauses (i) and (ii) of this subdivision. Any project may include all appurtenances and incidental facilities such as land, headquarters or office facilities, warehouses, distribution centers, access roads, sidewalks, utilities, railway sidings, trucking and similar facilities, parking facilities, landing strips and other facilities for aircraft, waterways, docks, wharves and other improvements necessary or convenient for the construction, maintenance and operation of any building or structure, or addition thereto.

(14) 'Revenues' shall mean, with respect to any project, the rents, fees, charges, payments, proceeds and other income or profit derived therefrom or from the financing agreement or security document in connection therewith.

(15) 'Security document' shall mean a written instrument or instruments establishing the rights and responsibilities of the ~~authority~~ agency and the holders of bonds issued to finance a project, and may provide for, or be in the form of an agreement with, a trustee for the benefit of such bondholders. A security document may contain an assignment, pledge, mortgage or other encumbrance of all or part of the ~~authority's~~ agency's interest in, or right to receive revenues with respect to, a project and any other property provided by the operator or other obligor under a financing agreement and may bear any appropriate title. A financing agreement and a security document may be combined as one instrument.

(16) 'Solid waste' shall mean solid waste materials resulting from any industrial or manufacturing activities or from any pollution control facility.

(17) 'Solid waste disposal facility' shall mean a facility for the purpose of treating, burning, compacting, composting, storing or disposing of solid waste.

(18) 'Water pollution control facility' shall mean any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing liquid industrial waste and other water pollution, including collecting, treating, neutralizing, stabilizing, cooling, segregating, holding, recycling, or disposing of liquid industrial waste and other water pollution, including necessary collector, interceptor, and outfall lines and pumping stations, which ~~shall have~~ has been certified by the ~~agency~~ entity exercising jurisdiction to be in

furtherance of the purpose of abating or controlling water pollution.

~~"§ 159D-4. Creation of the authority.~~

~~(a) The governing bodies of two or more counties are hereby authorized to create by resolution a political subdivision and body corporate and politic of the State known as "The North Carolina Industrial Facilities and Pollution Control Financing Authority", in order to effectuate in the most economical manner the acquisition, construction and financing of projects through pool programs.~~

~~If each governing body shall determine that it is in the best interest of the county to cause to be created and to become a member of the authority, each governing body shall adopt a resolution so finding and setting forth the names of the counties which are proposed to be initial members of the authority. The governing body of the county shall thereupon by ordinance or resolution appoint one commissioner of the authority.~~

~~Any two or more commissioners so named may file with the Secretary of State an application signed by them setting forth (i) the names of all the proposed member counties; (ii) the name and official residence of each of the commissioners so far as known to them; (iii) a certified copy of the appointment evidencing their right to office; (iv) a statement that each governing body of each respective county appointing a commissioner has made the aforesaid determination; and (v) the desire that an authority be organized as a political subdivision and a body corporate and politic under this Chapter.~~

~~The application shall be subscribed and sworn to by such commissioners before an officer or officers authorized by the laws of the State to administer and certify oaths.~~

~~The Secretary of State shall examine the application and, if he finds that the name proposed for the authority is not identical with that of any other corporation of this State or of any agency or instrumentality thereof, or so nearly similar as to lead to confusion and uncertainty, he shall receive and file it and shall record it in an appropriate book of record in his office.~~

~~When the application has been made, filed and recorded as herein provided, the authority shall constitute a political subdivision and a body corporate and politic under the name proposed in the application. The Secretary of State shall make and issue to the commissioners executing the application a certificate of incorporation pursuant to this Chapter under the seal of the State, and shall record the same with the application. The certificate shall set forth the names of the member counties.~~

~~In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract of the authority, the authority, in the absence of establishing fraud in the premises, shall be conclusively deemed to have been established in accordance with the provisions of this Chapter upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible~~

~~in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof.~~

~~Notice of the issuance of such certificate shall be given to all of the proposed member counties by the Secretary of State. If a commissioner of any such county has not signed the application to the Secretary of State and such county does not notify the Secretary of State of the appointment of a commissioner within 40 days after receipt of such notice, such county shall be deemed to have elected not to be a member of the authority. As soon as practicable after the expiration of such 40-day period, the Secretary of State shall issue a new certificate of incorporation, if necessary, setting forth the names of those counties which have elected to become members of the authority. The failure of any proposed member to become a member shall not affect the validity of the corporate existence of the authority.~~

~~(b) After the creation of the authority, any county may become a member thereof upon application to the authority after adoption of a resolution or ordinance by the governing body of the county setting forth the determination and finding prescribed in paragraph (a) of this G.S. 159D-4, and authorizing said county to participate. Any county may withdraw from membership in the authority, provided, however, that all contractual rights acquired and obligations incurred while a county was a member shall remain in full force and effect.~~

~~(c) The authority shall consist of a board of commissioners appointed by the respective governing bodies of the counties which are members of the authority. Each commissioner shall have one vote. Each commissioner shall serve at the pleasure of the governing body by which he was appointed. Each appointed commissioner before entering upon his duties shall take and subscribe to an oath before some person authorized by law to administer oaths to execute the duties of his office faithfully and impartially, and a record of such oath shall be filed with the governing body of the appointing municipality and spread upon its minutes.~~

~~(d) The board of commissioners of the authority shall annually elect from its membership a chairman and a vice-chairman and another person or persons, who may but need not be commissioners, as treasurer, secretary and, if desired, assistant secretary. The position of secretary and treasurer or assistant secretary and treasurer may be held by the same person. The secretary of the authority shall keep a record of the proceedings of the authority and shall be the custodian of all books, documents and papers filed with the authority, the minute book or journal of the authority and its official seal. Either the secretary or the assistant secretary of the authority may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.~~

~~(e) A majority of the commissioners of the authority then in office shall constitute a quorum. Except as provided in subsection (f) of this G.S. 159D-4, the affirmative vote of a majority of all the~~

~~commissioners of the authority shall be necessary for any action of the board. A vacancy in the board of commissioners of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the provisions of this Chapter may be authorized by resolution at any regular or special meeting, and each resolution shall take effect immediately and need not be published or posted. No bonds shall be issued under the provisions of this Chapter unless the issuance thereof shall have been approved by the governing body of the county in which the project with respect to which the bonds were issued is located.~~

~~(f) If at any time there shall be more than seven counties which are members of the authority, the board of commissioners of the authority may create an executive committee of the board of commissioners. The board may provide for the composition of the executive committee so as to afford, in its judgment, fair representation of the member counties. Any power of the authority under the provisions of this Chapter may be exercised by the executive committee of the authority between meetings of the authority, except that the executive committee may not overrule, reverse or disregard any action of the board of commissioners of the authority. The membership of the executive committee, terms of office of members thereof and the method of filling vacancies therein shall be fixed by the rules or bylaws of the board of commissioners.~~

~~(g) No commissioner of an authority shall receive any compensation for the performance of his duties under this Chapter; provided, however, that each commissioner shall be reimbursed for his necessary expenses incurred while engaged in the performance of duties but only from moneys provided by obligors.~~

~~(h) Within 30 days of the date of creation of the authority, the authority shall advise the Department of Commerce and the Local Government Commission that an authority has been formed. The authority shall also furnish such Department and such Commission with (i) a list of its commissioners and its officers and (ii) a description of any projects that are under consideration by the authority. The authority shall, from time to time, notify the Department of Commerce and the Local Government Commission of changes in the commissioners and officers, of counties which have become members of the authority and of new projects under consideration by the authority.~~

"§ *159D-4.1. Jurisdiction of the agency.*

All actions taken by counties, local officials, the Secretary of State, the State Treasurer, and other interested parties to create and organize The North Carolina Industrial Facilities and Pollution Control Financing Authority are ratified and confirmed. All duties, powers, jurisdiction, and responsibilities vested by statute or by contract in the authority are transferred to and vested in the North Carolina Capital Facilities Finance Agency, subject to the provisions of this Article. Upon this transfer, the agency is responsible for all duties and

obligations of the authority entered into or incurred, by contract or otherwise, before the transfer. Particularly, the agency is responsible for all matters relating to any outstanding bonds of the authority to the same extent that the authority was responsible for them before the date of transfer. The agency for all purposes assumes the role and is the legal successor of the authority. Upon this transfer, the authority is dissolved.

"§ *159D-5. General powers.*

The ~~authority~~ agency shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this ~~Chapter,~~ Article, ~~including, but without limiting the generality of the foregoing, the powers:~~ including all of the following:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(2) To adopt an official seal and alter the same at pleasure;

(3) To maintain an office at such place or places as it may determine;

(4) To sue and be sued in its own name, plead and be impleaded;

(5) To receive, administer and comply with the conditions and requirements respecting any gift, grant or donation of any property or money;

(6) To make and execute financing agreements, security documents and other contracts and instruments necessary or convenient in the exercise of the powers and functions of the ~~authority~~ agency under this ~~Chapter;~~ Article;

(7) To acquire by purchase, lease, gift or otherwise, but not by eminent domain, or to obtain options for the acquisition of any property, real or personal, improved or unimproved, and interests in land less than the fee thereof, for the construction, operation or maintenance of any project;

(8) To sell, lease, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest therein;

(9) To pledge or assign revenues of the ~~authority;~~ agency;

(10) To construct, acquire, own, repair, maintain, extend, improve, rehabilitate, renovate, furnish and equip one or more projects and to pay all or any part of the costs thereof from the proceeds of bonds of the ~~authority~~ agency or from any contribution, gift or donation or other funds made available to the ~~authority~~ agency for such purpose;

(11) To fix, charge and collect revenues with respect to any project;

(12) To employ consulting engineers, architects, attorneys, real estate counselors, appraisers and such other consultants and employees as may be required in the judgment of the ~~authority~~ agency and to fix and pay their compensation

from funds available to the ~~authority~~ agency therefor and to select and retain subject to approval of the Local Government Commission the financial consultants, underwriters and bond attorneys to be associated with the issuance of any bonds and to pay for services rendered by underwriters, financial consultants or bond attorneys out of the proceeds of any such issue with regard to which the services were performed; and

(13) To do all acts and things necessary, convenient or desirable to carry out the purposes, and to exercise the powers ~~herein granted.~~ granted in this Article.

"§ *159D-6. Bonds.*

(a) The ~~authority~~ agency is ~~hereby~~ authorized to provide for the issuance, at one time or from time to time, of bonds of the ~~authority~~ agency for the purpose of paying all or any part of the cost of any project. The principal of, the interest on and any premium payable under the redemption of such bonds shall be payable solely from the funds herein authorized for such payment. The bonds of each issue shall bear interest as may be determined by the Local Government Commission of North Carolina with the approval of the ~~authority~~ agency and the obligor irrespective of the limitations of G.S. 24-1.1, as amended, and successor provisions. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 30 years from the date of their issuance, and may be made redeemable before maturity at such price or prices and under such terms and conditions, as may be fixed by the ~~authority~~ agency prior to the issuance of the bonds. The ~~authority~~ agency shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest. In case any officer whose signature or a facsimile of whose signature ~~shall appear~~ appears on any bonds or coupons ~~shall cease~~ ceases to be ~~such~~ that officer before the delivery of ~~such~~ the bonds, ~~such~~ the signature or ~~such~~ the facsimile shall nevertheless be valid and sufficient for all purposes the same as if ~~he~~ the officer had remained in office until such delivery. The ~~authority~~ agency may also provide for the authentication of the bonds by a trustee or fiscal agent. ~~The bonds may be issued in coupon or in fully registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds.~~

(b) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects, or a portion thereof, for which ~~such~~ the bonds ~~shall have been~~ were issued, and shall be disbursed in such manner and under such restrictions, if any, as the ~~authority~~ agency may provide in the financing agreement and the security document. If the proceeds of the bonds of any issue, by

reason of increased construction costs or error in estimates or otherwise, ~~shall be~~ are less than such cost, additional bonds may in like manner be issued to provide the amount of such deficiency.

(c) The proceeds of bonds issued pursuant to this Article shall not be used to refinance the cost of a project. For the purposes of this section, a cost of a project is considered refinanced if both of the following conditions are met:

(1) The cost is initially paid from sources other than bond proceeds, and the original expenditure is to be reimbursed from bond proceeds.

(2) The original expenditure was paid more than 60 days before the agency took some action indicating its intent that the expenditure would be financed or reimbursed from bond proceeds.

(d) Notwithstanding subsection (c) of this section, preliminary expenditures that are incurred prior to the commencement of the acquisition, construction, or rehabilitation of a project, such as architectural costs, engineering costs, surveying costs, soil testing costs, bond issuance costs, and other similar costs, may be reimbursed from bond proceeds even if these costs are incurred or paid more than 60 days prior to the agency's action. This exception that allows preliminary expenditures to be reimbursed from bond proceeds, whether or not they are incurred or paid within 60 days of the agency's action, does not include costs that are incurred incident to the commencement of the construction of a project, such as expenditures for land acquisition and site preparation. In any event, an expenditure originally paid before the agency took some action indicating its intent that the expenditures would be financed or reimbursed from bond proceeds may be reimbursed from bond proceeds only if the agency finds that reimbursing those costs from bond proceeds will promote the purposes of this Article.

~~The authority may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.~~

(e) Bonds may be issued under the provisions of this ~~Chapter~~ Article without obtaining, except as otherwise expressly provided in this ~~Chapter,~~ Article, the consent of the ~~State or of any political subdivision or of any agency of either thereof,~~ State or of any political subdivision and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things ~~which are~~ specifically required by this ~~Chapter~~ Article and the provisions of the financing agreement and security document authorizing the issuance of such bonds and securing the same.

"*§ 159D-7. Approval of ~~project.~~ project by Secretary of Commerce.*

(a) Approval Required. -- No bonds may be issued by the ~~authority~~ agency pursuant to this Article unless the project for which ~~the~~ their issuance ~~thereof~~ is proposed is first approved by the Secretary

of Commerce. The ~~authority~~ agency shall file an application for approval of its proposed project with the Secretary of Commerce, and shall notify the Local Government Commission of such filing.

(b) Findings. -- The Secretary shall not approve any proposed project unless ~~he shall make~~ the Secretary makes all of the following, applicable findings:

(1) In the case of a proposed industrial project,
   a. That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage that (i) ~~which~~ is above the average weekly manufacturing wage paid in the county in which the project is to be located or (ii) ~~which~~ is not less than ten percent (10%) above the average weekly manufacturing wage paid in the State; and
   b. That the proposed project will not have a materially adverse effect on the ~~environment;~~ environment.

(2) In the case of a proposed pollution control project, that such project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise ~~occur; and~~ occur.

(2a) In the case of a hazardous waste facility or low-level radioactive waste facility ~~which~~ that is used as a reduction, recovery or recycling facility, that such project will further the waste management goals of North Carolina and will not have an adverse effect upon public health or a significant adverse effect on the ~~environment; and~~ environment.

(3) In any case (whether the proposed project is an industrial or a pollution control project),
   a. That the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project,
   b. That the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate such project, and
   c. That the financing of such project by the ~~authority~~ agency will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned because of obsolescence, lack of available labor in the area, or site limitations.

(c) Initial Operator. -- ~~In no case shall the Secretary of Commerce~~ If the initial proposed operator of a project is not expected to be the operator for the term of the bonds proposed to be issued, the Secretary may make the findings required pursuant to subdivisions

(b)(1)a. and (3)b. of this section only with respect to the initial operator. The initial operator shall be identified in the application for approval of the proposed project.

(d) Public Hearing. -- The Secretary of Commerce shall not approve any proposed project pursuant to this section unless the governing body of the county in which the project is located has first conducted a public hearing and, at or after the public hearing, approved in principle the issuance of bonds under this Article for the purpose of paying all or part of the cost of the proposed project. Notice of the public hearing shall be published at least once in at least one newspaper of general circulation in the county not less than 14 days before the public hearing. The notice shall describe generally the bonds proposed to be issued and the proposed project, including its general location, and any other information the governing body considers appropriate or the Secretary of Commerce prescribes for the purpose of providing the Secretary with the views of the community. The notice shall also state that following the public hearing the agency intends to file an application for approval of the proposed project with the Secretary of Commerce.

(e) Certificate of Department of Environment and Natural Resources. -- The Secretary of Commerce shall not make the findings required by subdivisions (b)(1)b and (2) of this section unless ~~he shall have~~ the Secretary has first received a certification from the Department of Environment and Natural Resources that, in the case of a proposed industrial project, the proposed project will not have a materially adverse effect on the environment and that, in the case of a proposed pollution control project, the proposed project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur. ~~In no case shall the~~ The Secretary ~~of Commerce~~ shall not make the findings required by subdivision (b)(2a) of this section unless ~~he shall have~~ the Secretary has first received a certification from the Department of Environment and Natural Resources that the proposed project is environmentally sound, will not have an adverse effect on public health and will further the waste management goals of North Carolina. ~~In any case where the Secretary shall make~~ The Secretary of Commerce shall deliver a copy of the application to the Department of Environment and Natural Resources. The Department of Environment and Natural Resources shall provide each certification to the Secretary of Commerce within seven days after the applicant satisfactorily demonstrates to it that all permits, including environmental permits, necessary for the construction of the proposed project have been obtained, unless the agency consents to a longer period of time.

(f) Waiver of Wage Requirement. -- If the Secretary of Commerce has made all of the required findings respecting a proposed industrial project, except that prescribed in subdivision (b)(1)a of this section, the Secretary may, in ~~his~~ the Secretary's discretion, approve the proposed project if ~~he shall have~~ the Secretary has received (i) a

resolution of the governing body of the county in which the proposed project is to be located requesting that the proposed project be approved notwithstanding that the operator will not pay an average weekly manufacturing wage above the average weekly manufacturing wage in the county and (ii) a letter from an appropriate State official, selected by the Secretary, to the effect that unemployment in the county is especially severe.

(g) Rules. -- To facilitate ~~his~~ the Secretary's review of each proposed project, the Secretary may require the ~~authority~~ agency to obtain and submit such data and information about such project as the Secretary may prescribe. ~~In addition, the Secretary may, in his discretion, request the authority to hold a public hearing on the proposed project for the purpose of providing the Secretary directly with the views of the community to be affected.~~ The Secretary may also prescribe such forms and such rules ~~and regulations~~ as ~~he shall deem~~ the Secretary considers reasonably necessary to implement the provisions of this section.

(h) Certificate of Approval. -- If the Secretary approves the proposed project, ~~he~~ the Secretary shall prepare a certificate of approval evidencing such approval and setting forth ~~his~~ the findings and shall cause ~~said~~ the certificate of approval to be published in a newspaper of general circulation within the county in which the proposed project is to be located. Any such approval shall be reviewable as provided in Article 4 of Chapter 150B of the General Statutes ~~of North Carolina~~ only by an action filed, within 30 days after notice of such findings and approval shall have been so published, in the Superior Court of Wake County. ~~Such~~ The superior court is hereby vested with jurisdiction to hear such action, but if no such action is filed within the 30 days herein prescribed, the validity of such approval shall be conclusively presumed, and no court shall have authority to inquire into such approval. Copies of the certificate of approval of the proposed project will be given to the ~~authority,~~ agency, the governing body of the county in which the proposed project is to be located and the secretary of the Local Government Commission.

~~Such~~ The certificate of approval shall become effective immediately following the expiration of ~~such~~ the 30-day period or the expiration of any appeal period after a final determination by any court of any action timely filed pursuant to this section. ~~Such~~ The certificate shall expire one year after its date unless extended by the Secretary who shall not extend ~~such~~ the certificate unless ~~he shall~~ the Secretary again ~~approve~~ approves the proposed project as provided in this section. If bonds are issued within that year pursuant to the authorization of this Article or Chapter 159C of the General Statutes to pay all or part of the costs of the project, however, the certificate expires three years after the date of the first issuance of the bonds.

(i) Certificate Issued Under Chapter 159C Effective. -- Any certificate of approval with respect to a project which has become effective pursuant to G.S. 159C-7 ~~shall be deemed to satisfy~~ satisfies the requirements of this section to the extent that the findings made by

the Secretary pursuant to G.S. 159C-7 are consistent with the findings required to be made by the Secretary pursuant ~~hereto.~~ to this section.

"§ *159D-8. Approval of bonds.*

(a) No bonds may be issued by the ~~authority~~ agency pursuant to this Article unless the issuance ~~thereof~~ is first approved by the Local Government Commission.

The ~~authority~~ agency shall file an application for approval of its proposed bond issue with the secretary of the Local Government Commission, and shall notify the Secretary of the Department of Commerce of such filing.

(b) In determining whether a proposed bond issue should be approved, the Local Government Commission may consider, without limitation, the following:

(1) Whether the proposed operator and obligor have demonstrated or can demonstrate the financial responsibility and capability to fulfill their obligations with respect to the financing agreement. In making such determination, the commission may consider the operator's experience and the obligor's ratio of current assets to current liabilities, net worth, earnings trends and coverage of fixed charges, the nature of the industry or business involved and its stability and any additional security such as insurance, guaranties or property to be pledged or secure such bonds.

(2) Whether the political subdivisions in or near which the proposed project is to be located have the ability to cope satisfactorily with the impact of such project and to provide, or cause to be provided, the public facilities and services, including utilities, that will be necessary for such project and on account of any increase in population which are expected to result therefrom.

(3) Whether the proposed date and manner of sale will have an adverse effect upon any scheduled or anticipated sale of obligations by the State or any political subdivision or any agency of either of them.

(c) To facilitate the review of the proposed bond issue by the commission, the Secretary may require the ~~authority~~ agency to obtain and submit such financial data and information about the proposed bond issue and the security therefor, including the proposed prospectus or offering circular, the proposed financing agreement and security document and annual and other financial reports and statements of the obligor, as the Secretary may prescribe. The Secretary may also prescribe ~~such~~ forms and ~~such~~ rules ~~and regulations as he shall deem~~ that the Secretary considers reasonably necessary to implement the provisions of this section.

"§ *159D-9. Sale of bonds.*

Bonds issued under this Article may be sold in such manner, either at public or private sale, and for such price as the Local Government Commission ~~shall determine~~ determines to be for the best interests of the ~~authority~~ agency and effectuate best the purposes of this ~~Chapter~~

Article irrespective of the interest limitations set forth in G.S. 24-1.1, as amended, and successor ~~provisions provided that such sale shall be~~ provisions, as long as the sale is approved by the ~~authority~~ agency and the obligor.

"§ *159D-10. Location of projects.*

~~Except as provided in this section, any~~ Any project of the ~~authority~~ agency shall be located within the boundaries of ~~a county which is a member of the authority. A portion or portions of any project including, but not limited to, any real or personal property or improvements necessary or convenient for the construction, maintenance, and operation of the project, may be located in a county or counties other than the county in which the principal part of the project is located so long as the additional portion or portions constitute functionally appurtenant or incidental facilities and the governing body of each other county in which the additional portion or portions of the project is or are located approves the project.~~ the State. Bonds may not be issued to finance any project or group of projects in any county of the State unless the board of commissioners for the county in which the project is located has consented to the location of the project within the county.

"§ *159D-11. Financing agreements.*

(a) Every financing agreement shall provide that:

(1) Repealed by Session Laws 1987, c. 517, s. 7.

(2) The amounts payable under the financing agreement shall be sufficient to pay all of the principal of and interest and redemption premium, if any, and interest on the bonds ~~that shall be~~ issued by the ~~authority~~ agency to pay the cost of the project as ~~the same shall~~ they respectively become due;

(3) The obligor shall pay all costs incurred by the ~~authority~~ agency in connection with the financing and administration of the project, except as may be paid out of the proceeds of bonds or otherwise, including, but without limitation, insurance costs, the cost of administering the financing agreement and the security document and the fees and expenses of the fiscal agent or trustee, paying agents, attorneys, consultants and others;

(4) The obligor shall pay all the costs and expenses of operation, maintenance and upkeep of the project; and

(5) The obligor's obligation to provide for the payment of the bonds in full shall not be subject to cancellation, termination or abatement until ~~such~~ payment of the bonds or provision for payment has been ~~therefor shall be~~ made.

(b) The financing agreement may be in the nature of:

(1) A sale and leaseback,

(2) A lease purchase,

(3) A conditional sale,

(4) An installment sale,

(5) A secured or unsecured loan,

(6) A loan and mortgage, or

(7) Another ~~Other~~ similar transaction.

(c) The financing agreement, if in the nature of a lease agreement, shall either provide that the obligor ~~shall have~~ has an option to purchase, or require that the obligor purchase, the project upon the expiration or termination of the financing agreement subject to the condition that payment in full of the principal of, and the interest and any redemption premium on, the bonds, or provision for payment has ~~therefor, shall have~~ been made.

(d) The financing agreement may provide the ~~authority~~ agency with rights and remedies in the event of a default by the obligor ~~thereunder~~ under it including, without limitation, any one or more of the following:

(1) Acceleration of all amounts payable under the financing agreement;
(2) Reentry and repossession of the project;
(3) Termination of the financing agreement;
(4) Leasing or sale or ~~fore-closure [sic]~~ foreclosure of the project to others; and
(5) Taking whatever actions at law or in equity may appear necessary or desirable to collect the amounts payable under, and to enforce covenants made in, the financing agreement.

(e) The ~~authority's~~ agency's interest in a project under a financing agreement may be that of owner, lessor, lessee, conditional or installment vendor, mortgagor, mortgagee, secured party or otherwise, but the ~~authority~~ agency need not have any ownership or possessory interest in the project.

(f) The ~~authority~~ agency may assign all or any of its rights and remedies under the financing agreement to the trustee or bondholders under the security document.

(g) ~~Any such~~ The financing agreement may contain ~~such~~ any additional provisions ~~as in the determination of the authority~~ the agency considers ~~are~~ necessary or convenient to effectuate the purposes of this ~~Chapter.~~ Article.

"*§ 159D-12. Security documents.*

(a) Bonds issued under the provisions of this ~~Chapter~~ Article may be secured by a security document which may be a trust instrument between the ~~authority~~ agency and a bank or trust company or individual within the State, or a bank or a trust company without the State, as trustee. Such security document may pledge and assign the revenues provided for the security of the bonds, including proceeds from the sale of any project, or part thereof, insurance proceeds and condemnation awards, and may convey or mortgage the project and other property to secure a bond issue.

The revenues and other funds derived from the project, except ~~such part thereof as may be necessary to provide reserves therefor, if any,~~ any part necessary to provide reserves shall be set aside at such regular intervals as may be provided in such security document in a sinking fund which may be ~~thereby~~ pledged to, and charged with, the payment of the principal of and the interest on such bonds as ~~the same~~

~~shall~~ they become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. The revenues so pledged and thereafter received by the ~~authority~~ agency shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the ~~authority,~~ agency, irrespective of whether such parties have notice thereof. The use and disposition of money to the credit of such sinking fund shall be subject to the provisions of the security document. Such security document may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, without limitation, any one or more of the following:

(1) Acceleration of all amounts payable under the security document;
(2) Appointment of a receiver to manage the project and any other property mortgaged or assigned as security for the bonds;
(3) Foreclosure and sale of the project and any other property mortgaged or assigned as security for the bonds; and
(4) Rights to bring and maintain such other actions at law or in equity as may appear necessary or desirable to collect the amounts payable under, or to enforce the covenants made in, the security document.

(b) It ~~shall be~~ is lawful for any bank or trust company incorporated under the laws of this State which may act as depositary of the proceeds of bonds, revenues or other funds provided under this ~~Chapter~~ Article to furnish such indemnifying bonds or to pledge such securities as may be required by the ~~authority.~~ agency. All expenses incurred in carrying out the provisions of such security document may be treated as a part of the cost of the project in connection with which bonds are issued or as an expense of administration of such project.

The ~~authority~~ agency may subordinate the bonds or its rights under the financing agreement or otherwise to any prior, contemporaneous or future securities or obligations or lien, mortgage or other security interest.

Any such security document may contain such additional provisions as in the determination of the ~~authority~~ agency are necessary or convenient or effectuate the purposes of this ~~Chapter.~~ Article.

"*§ 159D-13. Trust funds.*

Notwithstanding any other provisions of law to the contrary, all money received pursuant to the authority of this ~~Chapter,~~ Article, whether as proceeds from the sale of bonds or as revenues, ~~shall be deemed to be~~ are trust funds to be held and applied solely as provided in this ~~Chapter.~~ Article. The security document may provide that any of ~~such moneys~~ the money may be temporarily invested and reinvested pending ~~the~~ its disbursement ~~thereof~~ in ~~such~~ any securities and other

investments as ~~shall be~~ provided in such security document, and shall provide that any officer with whom, or any bank or trust company with which, ~~such moneys shall be~~ the money is deposited shall act as trustee ~~of such moneys~~ and shall hold and apply ~~the same~~ it for the purpose ~~hereof,~~ of this Article, subject to ~~such~~ any regulations ~~as~~ this ~~Chapter~~ Article and ~~such~~ the security document ~~may~~ provide.

"*§ 159D-14. Tax exemption.*

The ~~authority~~ agency ~~shall not be~~ is not required to pay any taxes on any project or on any other property owned by the ~~authority~~ agency under the provisions of this ~~Chapter~~ Article or upon the income ~~therefrom.~~ from the property.

The interest on bonds issued by the ~~authority~~ agency ~~shall be~~ is exempt from all income taxes within the State.

All projects and all transactions ~~therefor shall be~~ for them are subject to taxation to the extent ~~such projects and transactions~~ they would be subject to taxation if no public body were involved ~~therewith.~~ with them.

"*§ 159D-15. Construction contracts.*

The ~~authority~~ agency may agree with the prospective operator that all contracts relating to the acquisition, construction, installation and equipping of a project shall be solicited, negotiated, awarded and executed by the prospective operator and its agents subject only to such approval by the ~~authority~~ agency as the ~~authority~~ agency may require in such agreement. Such agreement may provide that the ~~authority~~ agency may, out of the proceeds of bonds, make advances to or reimburse the operator for all or a portion of its costs incurred in connection with such contracts.

"*§ 159D-16. Conflict of interest.*

If any officer, commissioner or employee of the ~~authority~~ agency ~~shall be~~ is interested either directly or indirectly in any contract with the ~~authority,~~ agency, such interest shall be disclosed to the ~~authority~~ agency and shall be set forth in the minutes of the ~~authority,~~ agency, and the officer, commissioner, employee or member having such interest ~~therein~~ shall not participate on behalf of the ~~authority~~ agency in the authorization of ~~any such contract; provided, however, that this section shall~~ the project. This section does not apply to the ownership of less than one ~~per centum~~ percent (1%) of the stock of any operator or obligor. Failure to take any or all actions necessary to carry out the purposes of this section ~~shall~~ does not affect the validity of bonds issued pursuant to the provisions of this ~~Chapter.~~ Article.

"*§ 159D-17. Credit of State not pledged.*

Bonds issued under the provisions of this ~~Chapter~~ Article ~~shall~~ do not ~~not be deemed to~~ constitute a debt of the State or any political subdivision ~~or any agency thereof~~ or a pledge of the faith and credit of the State or any political ~~subdivision or any such agency,~~ subdivisions, but shall be payable solely from the revenues and other funds provided ~~therefor.~~ for payment. Each bond issued under this Chapter shall contain on ~~the face thereof~~ its face a statement to the effect that the ~~authority~~ agency shall not be obligated to pay the ~~same~~ bonds or the

interest ~~thereon~~ on it except from the revenues and other funds pledged ~~therefor~~ for payment and that neither the faith and credit nor the taxing power of the State or any political subdivision ~~or any agency thereof~~ is pledged to the payment of the principal of or the interest on ~~such~~ the bonds.

"§ *159D-18. Bonds eligible for investment.*

Bonds issued by ~~an authority~~ the agency under the provisions of this ~~Chapter~~ Article are ~~hereby made~~ securities in which all public officers and agencies of the State and all political subdivisions, and all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them.

"§ *159D-19. Revenue refunding bonds.*

(a) The ~~authority~~ agency is ~~hereby~~ authorized to provide by resolution for the issuance of refunding bonds of the ~~authority~~ agency for the purpose of refunding any bonds then outstanding ~~which~~ that ~~shall~~ have been issued under the provisions of this ~~Chapter,~~ Article, or under the provisions of Chapter 159C of the General Statutes, including the payment of any redemption premium ~~thereon~~ and any interest accrued or to accrue to the date of redemption of such bonds, and, if ~~deemed~~ considered advisable by the ~~authority,~~ agency, for either or both of the following additional purposes:

(1) Constructing improvements, additions, extensions or enlargements of the project or projects in connection with which the bonds to be refunded shall have been issued; and

(2) Paying all or any part of the cost of any additional project or projects.

(a1) The issuance of ~~such~~ bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the ~~authority~~ agency in respect to the ~~same shall be~~ bonds are governed by the provisions of this ~~Chapter which~~ Article that relate to the issuance of ~~bonds, insofar as such provisions may be appropriate therefor.~~ bonds.

The approvals required by G.S. 159D-7 and G.S. 159D-8 shall be obtained prior to the issuance of any refunding ~~bonds; provided, however,~~ bonds, except that in the case where the refunding bonds of all or a portion of an issue are to be issued solely for the purpose of refunding outstanding bonds issued under this ~~Chapter,~~ Article, the approval required by G.S. 159D-7 ~~shall not be~~ is not required as to the project financed with the bonds to be refunded.

(b) Refunding bonds issued under this section may be sold or exchanged for outstanding bonds issued under this ~~Chapter~~ Article and, if sold, the proceeds ~~thereof~~ may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding bonds. Refunding bonds may be issued, in the determination of the ~~authority,~~ agency, at any time not more than five years prior to the date of maturity or maturities or the date selected for the redemption of the bonds being refunded thereby. Pending the

application of the proceeds of such refunding bonds, with any other available funds, to the payment of the principal of and accrued interest and any redemption premium on the bonds being refunded, and, if so provided or permitted in the security document securing the ~~same,~~ bonds to the payment of any interest on such refunding bonds, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America ~~which shall~~ if these obligations mature or ~~which shall be~~ are subject to redemption by the ~~holder thereof, at the option of such holder,~~ holder, at the holder's option not later than the respective dates when the proceeds, together with the interest accruing ~~thereon~~ on them will be required for the purposes intended.

"§ *159D-20. No power of eminent domain.*

The ~~authority~~ agency shall not have any right or power to acquire any property through the exercise of eminent domain or any proceedings in the nature of eminent domain.

~~"§ 159D-21. Dissolution of the authority.~~

~~Whenever the board of commissioners of the authority and the governing bodies of two-thirds of the counties which are then members of the authority shall by joint resolution determine that the purposes for which the authority was formed have been substantially fulfilled and that all bonds theretofore issued and all other obligations theretofore incurred by the authority have been fully paid or satisfied, such board of commissioners and governing bodies may declare the authority to be dissolved. On the effective date of such joint resolution, the title to all funds and other property owned by the authority at the time of such dissolution shall vest as provided in said joint resolution, and possession of such funds and other property shall forthwith be delivered as provided in said joint resolution.~~

~~"§ 159D-22. Annual reports; application of Article 3, Subchapter III of Chapter 159.~~

~~The authority shall, promptly following the close of each calendar year, submit an annual report of its activities for the preceding year to the governing bodies of the counties which are then members of the authority. Each such report shall set forth a complete operating and financial statement covering the operations of the authority during such year.~~

~~The provisions of Article 3, Subchapter III of Chapter 159 of the General Statutes of North Carolina entitled 'The Local Government Budget and Fiscal Control Act' shall have no application to the authority.~~

"§ *159D-23. Application of Article 9 of Chapter 25.*

The provisions of G.S. 25-9-104(e) and G.S. 25-9-302(6) to the contrary notwithstanding, the provisions of Article 9 of North Carolina Uniform Commercial ~~Code, being G.S. 25-9-101 to 25-9-507, inclusive, shall apply [to]~~ Code apply to transactions under this ~~Chapter 159D~~ Article to the same extent ~~the provisions of such Article~~

~~9 would apply were~~ as if G.S. 25-9-104(e) and G.S. 25-9-302(6) ~~hereby~~ were repealed.

"*§ 159D-24. Officers not liable.*

No ~~commissioner of any authority~~ member of the Board of Directors of the agency shall be subject to any personal liability or accountability by reason of ~~his~~ the issuance or execution of any ~~bonds or the issuance thereof.~~ bonds.

"*§ 159D-25. Additional method.*

The foregoing sections of this ~~Chapter~~ Article ~~shall be deemed to~~ provide an additional and alternative method for the doing of the things authorized ~~thereby~~ and ~~shall be regarded as~~ are supplemental and additional to powers conferred by other ~~laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the~~ laws. They do not derogate any other powers. The issuance of bonds or refunding bonds under the provisions of this ~~Chapter~~ Article need not comply with the requirements of any other law applicable to the issuance of bonds.

"*§ 159D-26. Liberal construction.*

This ~~Chapter,~~ Article, being necessary for the prosperity and welfare of the State and its inhabitants, shall be liberally construed to effect ~~the purposes hereof.~~ its purposes.

"*§ 159D-27. Inconsistent laws inapplicable.*

Insofar as the provisions of this ~~Chapter~~ Article are inconsistent with the provisions of any general, special or local laws, or parts thereof, the provisions of this ~~Chapter~~ Article shall be controlling.

"ARTICLE 2.

"Private ~~Educational~~ Capital Facilities Finance Act.

"§ 159D-35. Short title.

This ~~Chapter~~ Article shall be known, and may be cited, as the 'Private ~~Educational~~ Capital Facilities Finance Act.'

"*§ 159D-36. Legislative findings.*

It is ~~hereby~~ declared that for the benefit of the people of the State of North Carolina, the increase of their commerce, welfare and prosperity and the improvement of their health and living conditions it is essential that they be given the fullest opportunity to learn and to develop their intellectual capacities; that it is essential for institutions for higher education and institutions for elementary and secondary education within the State to be able to construct and renovate facilities to assist its citizens in achieving the fullest development of their intellectual capacities; and that it is the purpose of this ~~Chapter~~ Article to provide a measure of assistance and an alternative method to enable private institutions for higher education and institutions for elementary and secondary education in the State to provide the facilities and the structures that are needed to accomplish the purposes of this ~~Chapter,~~ Article, all to the public benefit and good, to the extent and in the manner provided ~~herein.~~ in this Article.

It is ~~hereby~~ further declared that this purpose will benefit the people as a way to improve student learning, increase learning opportunities for all students, encourage the use of different and innovative teaching

methods, create new professional opportunities for teachers, provide parents and students with expanded choices in the types of educational opportunities that are available, and lower the overall cost of education to the State and to parents and students.

The General Assembly also finds that the private sector often provides services and opportunities to the people of the State of North Carolina in activities that constitute a public purpose, and that these activities by the private sector are to be fostered and encouraged. The people of the State of North Carolina will benefit from the enactment of laws and creation of programs that assist the private sector in obtaining financing for capital improvements of facilities that will be used in conducting these activities.

"*§ 159D-37. Definitions.*

As used or referred to in this ~~Chapter,~~ Article, the following words and terms ~~shall~~ have the following meanings, unless the context clearly indicates otherwise:

(1) 'Agency' means the North Carolina ~~Educational~~ Capital Facilities Finance Agency ~~created by this Chapter,~~ or, should ~~said~~ this agency be abolished or otherwise divested of its functions under this ~~Chapter,~~ Article, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this ~~Chapter~~ Article to the agency.

(1a) 'Bonds' or 'notes' means the revenue bonds or bond anticipation notes, respectively, authorized to be issued by the agency under this Article, including revenue refunding bonds, notwithstanding that they may be secured by a deed of trust or the full faith and credit of a participating institution or any other lawfully pledged security of a participating institution.

(2) 'Cost', as applied to any project or any portion ~~thereof~~ of a project financed under the provisions of this ~~Chapter,~~ Article, means all or any part of the cost of construction, acquisition, alteration, enlargement, reconstruction and remodeling of a project, including all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for or in connection with a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction and, if deemed advisable by the agency, for a period not exceeding two years after the estimated date of completion of construction, the cost of engineering and architectural surveys, plans and specifications, the cost of consulting and legal services and other expenses necessary or incident to determining the feasibility or practicability of constructing or equipping a

project, the cost of administrative and other expenses necessary or incident to the construction or acquisition of a project and the financing of the construction or acquisition thereof, including reasonable provision for working capital and a reserve for debt service, and the cost of reimbursing any participating institution for any payments made for any cost described above or the refinancing of any cost described above, including any evidence of indebtedness incurred to finance such cost; provided, however, that no payment shall be reimbursed or any cost or indebtedness be refinanced if such payment was made or such cost or indebtedness was incurred before November 25, 1981.

~~(3) "Project" means any one or more buildings, structures, improvements, additions, extensions, enlargements or other facilities for use primarily as a dormitory or other housing facility, including housing facilities for student nurses, a dining hall and other food preparation and food service facilities, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, laundry facility, and maintenance, storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education or an institution for elementary and secondary education, including parking and other facilities or structures essential or convenient for the orderly conduct of such an institution, or any combination of the foregoing, and shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of an institution for higher education or an institution for elementary and secondary education or a particular facility, building or structure thereof in the manner for which its use is intended but shall not include such items as books, fuel, supplies or other items the costs of which are customarily deemed to result in a current operating charge, and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility that is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.~~

~~(4) 'Bonds' or 'notes' means the revenue bonds or bond anticipation notes, respectively, authorized to be issued by the agency under this Chapter, including revenue refunding bonds, notwithstanding that the same may be secured by a deed of trust or the full faith and credit of a participating institution or any other lawfully pledged security of a participating institution.~~

(4a) 'Institution for elementary and secondary education' means a nonprofit institution within the State of North Carolina authorized by law and engaged or to be engaged in the providing of kindergarten, elementary, or secondary education, or any combination ~~thereof.~~ of these.

(5) 'Institution for higher education' means a nonprofit private educational institution within the State of North Carolina authorized by law to provide a program of education beyond the high school level.

(6) 'Participating institution' means an institution for higher ~~education or~~ education, an institution for elementary and secondary ~~education~~ education, or a special purpose institution that, pursuant to the provisions of this ~~Chapter,~~ Article, undertakes the financing, refinancing, acquiring, constructing, equipping, providing, owning, repairing, maintaining, extending, improving, rehabilitating, ~~renovating~~ renovating, or furnishing of a project or undertakes the refunding or refinancing of obligations or of a deed of trust or a mortgage or of advances as provided in this ~~Chapter.~~ Article.

(6a) 'Project' means any one or more buildings, structures, equipment, improvements, additions, extensions, enlargements, or other facilities comprising any of the following:

a. Educational facilities used by an institution for higher education or an institution for elementary and secondary education, including dormitories and other housing facilities, housing facilities for student nurses, dining halls and other food preparation and food service facilities, student unions, administration buildings, academic buildings, libraries, laboratories, research facilities, classrooms, athletic facilities, health care facilities, laundry facilities, and other structures or facilities related to these facilities or required or useful for the instruction of students, the conducting of research, or the operation of the institution.

b. Student housing facilities to be owned or operated by an owner or operator other than an institution for higher education or an institution for elementary and secondary education.

c. A special purpose project as defined in G.S. 159C-3.

The term 'project' also includes landscaping, site preparation, furniture, equipment and machinery, and other similar items necessary or convenient for operation of a particular facility, building, or structure in the manner for which its use is intended, and maintenance, storage, or utility facilities and other structures or facilities related to, required, or useful for the operation of the facilities, including parking and other facilities or structures essential or convenient for the orderly conduct

of the facility. The term 'project' does not include such items as books, fuel, or supplies or other items the costs of which customarily result in a current operating charge. The term does not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility that is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

(6b) 'Special purpose institution' means a for-profit or not-for-profit corporation or similar entity that undertakes any of the activities set forth in sub-subdivisions (6a)b. and (6a)c. of this section.

(7) 'State' means the State of North Carolina.

"§ *159D-38.* ~~*Educational*~~ *Capital facilities finance agency.*

(a) There is ~~hereby~~ created a body politic and corporate to be known as 'North Carolina ~~Educational~~ Capital Facilities Finance Agency' which shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions. The agency shall be governed by a board of directors composed of seven members. Two of the members of ~~said~~ the board shall be the State Treasurer and the State Auditor, both of whom shall serve ex officio. The remaining directors of the agency shall be residents of the State and shall not hold other public office. The General Assembly upon the recommendation of the President Pro Tempore of the Senate shall appoint one director in accordance with G.S. 120-121, the General Assembly upon the recommendation of the Speaker of the House of Representatives shall appoint one director in accordance with G.S. 120-121, and the Governor shall appoint three ~~of the~~ directors of the agency. The five appointive directors of the agency shall be appointed for staggered four-year terms, two being appointed initially for one year by the President of the Senate and the Speaker of the House, respectively, and one for two years, one for three years and one for four years, respectively, as designated by the Governor. Each ~~Governor, and each~~ director shall continue in office until ~~his~~ a successor ~~shall be~~ is duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any vacancy in a position held by an appointive member shall be filled by a new appointment made by the officer who originally made ~~such~~ the appointment. Any member of the board of directors ~~shall be~~ is eligible for reappointment. Each appointive member of the board of directors may be removed by the Governor for misfeasance, malfeasance or neglect of duty after reasonable notice and a public hearing, unless the ~~same~~ notice and hearing are in writing expressly waived. Each appointive member of the board of directors ~~before entering upon his duties~~ shall take an oath of office to administer the duties of ~~his~~ office faithfully and impartially and a record of ~~such~~ the oath shall be filed in the office of the Secretary of State. The Governor shall designate from among the members of the board of directors a ~~chairman and a vice-chairman. The terms of the chairman and vice-chairman shall~~ chair and a vice-chair, whose terms

extend to the earlier of either two years or the date of expiration of their then current terms as members of the board of directors of the agency. The board of directors shall elect and appoint and prescribe the duties of a secretary-treasurer and ~~such~~ any other officers ~~as it shall deem~~ it considers necessary or advisable, which officers need not be members of the board of directors.

(b) No part of the revenues or assets of the agency shall inure to the benefit of or be distributable to its members or officers or other private persons. The members of the agency shall receive no compensation for their services but shall be entitled to receive, for attendance at meetings of the agency or any committee thereof and for other services for the agency, reimbursement for such actual expenses as may be incurred for travel and subsistence in the performance of official duties and such per diem as is allowed by law for members of other State boards, commissions and committees.

(c) The secretary-treasurer of the agency shall keep a record of the proceedings of the agency and shall be custodian of all books, documents and papers filed with the agency, the minute book or journal of the agency and its official seal. ~~He~~ The secretary-treasurer shall have authority to cause copies to be made of all minutes and other records and documents of the agency and to give certificates under the official seal of the agency to the effect that such copies are true copies, and all persons dealing with the agency may rely upon such certificates.

(d) Four members of the board of directors of the agency shall constitute a quorum and the affirmative vote of a majority of the members present at a meeting of the board of directors duly called and held shall be necessary for any action taken by the board of directors of the ~~agency; provided, however, that the~~ agency. The board of directors ~~may~~ may, however, appoint an executive committee to act on behalf of ~~said~~ the board during the period between regular meetings of said board, and said committee shall have full power to act upon the vote of a majority of its members. No vacancy in the membership of the agency ~~shall impair~~ impairs the rights of a quorum to exercise all the rights and to perform all the duties of the agency.

(e) The North Carolina ~~Educational~~ Capital Facilities Finance Agency shall be contained within the Department of State Treasurer as if it had been transferred to that department by a Type II transfer as defined in G.S. 143A-6(b).

"§ *159D-39. General powers.*

The agency shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this ~~Chapter,~~ Article, ~~including, but without limiting the generality of the foregoing, the power:~~ including all of the following:

(1) To make and execute contracts and agreements necessary or incidental to the exercise of its powers and duties under this ~~Chapter,~~ Article, including loan agreements and agreements of sale or leases with, mortgages and deeds of trust and conveyances to participating institutions, persons,

firms, corporations, governmental agencies and others and including credit enhancement ~~agreements;~~ agreements.

(2) To acquire by purchase, lease, gift or otherwise, or to obtain options for the acquisition of any property, real or personal, improved or unimproved, including interests in land in fee or less than fee for any project, upon such terms and at such cost as shall be agreed upon by the owner and the ~~agency;~~ agency.

(3) To arrange or contract with any county, city, town or other political subdivision or instrumentality of the State for the opening or closing of streets or for the furnishing of utility or other services to any ~~project;~~ project.

(4) To sell, convey, lease as lessor, mortgage, exchange, transfer, grant a deed of trust in, or otherwise dispose of, or to grant options for ~~any such~~ these purposes with respect to, any real or personal property or interest ~~therein;~~ in property.

(5) To pledge or assign any money, purchase price payments, rents, loan repayments, charges, fees or other revenues, including any federally guaranteed securities and moneys received ~~therefrom~~ from them whether ~~such~~ the securities are initially acquired by the agency or a participating institution, and any proceeds derived by the agency from sales of property, insurance, condemnation awards or other ~~sources;~~ sources.

(6) To pledge or assign the revenues and receipts from any project and from any loan agreement, agreement of ~~sale~~ sale, or ~~lease of the~~ lease, including any loan repayments, purchase price payments, ~~rent and~~ rent, or other income received ~~thereunder;~~ under a loan agreement, agreement of sale, or lease.

(7) To borrow money as ~~herein~~ provided in this Article to carry out and effectuate its corporate purposes and to issue ~~in evidence thereof~~ bonds and notes for the purpose of providing funds to pay all or any part of the cost of any project, to lend money to any participating institution for the acquisition of any federally guaranteed ~~securities~~ securities, and to issue revenue refunding ~~bonds;~~ bonds.

(8) To finance, refinance, acquire, construct, equip, provide, operate, own, repair, maintain, extend, improve, rehabilitate, renovate and furnish any project and to pay all or any part of the cost thereof from the proceeds of bonds or notes or from any contribution, gift or donation or other funds available to the agency for ~~such purpose;~~ this purpose.

(9) To fix, revise, charge and collect or cause to be fixed, revised, charged and collected purchase price payments, rents, loan repayments, fees, rates and charges for the use of, or services rendered by, any ~~project;~~ project.

(10) To employ fiscal consultants, consulting engineers, architects, attorneys, feasibility consultants, appraisers and ~~such~~ any other consultants and employees as may be required in the judgment of the agency and to fix and pay their compensation from funds available to the ~~agency therefor;~~ agency.

(11) To conduct studies and surveys respecting the need for projects and their location, financing and ~~construction;~~ construction.

(12) To apply for, accept, receive and agree to and comply with the terms and conditions governing grants, loans, advances, contributions, interest subsidies and other aid with respect to any project from federal and State agencies or ~~instrumentalities;~~ instrumentalities.

(13) To sue and be sued in its own name, plead and be ~~impleaded;~~ impleaded.

(14) To acquire and enter into commitments to acquire any federally guaranteed security or federally insured mortgage note and to pledge or otherwise use ~~any such~~ the federally guaranteed security or federally insured mortgage note ~~in such manner as the agency deems~~ as the agency considers in its best interest to secure or otherwise provide a source of repayment on any of its bonds or notes issued on behalf of any participating institution to finance or refinance the cost of any ~~project;~~ project.

(15) To make loans to any participating institution for the cost of a project in accordance with an agreement between the agency and the participating ~~institution;~~ institution.

(16) To make loans to a participating institution to refund outstanding loans, obligations, deeds of trust or advances issued, made or given by ~~such~~ the participating institutions for the cost of a ~~project;~~ project.

(17) To charge and to apportion among participating institutions its administrative costs and expenses incurred in the exercise of its powers and duties conferred by this ~~Chapter;~~ Article.

(18) To adopt an official seal and alter ~~the same at pleasure; and~~ it at pleasure.

(19) To do all other things necessary or convenient to carry out the purposes of this ~~Chapter.~~ Article.

"*§ 159D-40. Criteria and requirements.*

(a) In undertaking any project pursuant to this ~~Chapter,~~ Article, the agency shall be guided by and shall observe the following criteria and ~~requirements; provided that the~~ requirements listed below. The determination of the agency as to its compliance with ~~such~~ these criteria and requirements ~~shall be final and conclusive;~~ is conclusive.

(1) No project shall be sold or leased nor any loan made to any participating institution ~~for higher education or any institution for elementary and secondary education~~ that is not

financially responsible and capable of fulfilling its obligations, including its obligations under an agreement of sale or lease or a loan agreement to make purchase price payments, to pay rent, to make loan repayments, to operate, repair and maintain at its own expense the project and to discharge ~~such~~ any other responsibilities ~~as may be~~ imposed under the agreement of sale or lease or loan ~~agreement;~~ agreement.

(2) Adequate provision shall be made for the payment of the principal of and the interest on the bonds and any necessary reserves ~~therefor~~ for payment and for the operation, repair and maintenance of the project at the expense of the participating ~~institution;~~ institution.

(3) The public facilities, including utilities, and public services necessary for the project will be made ~~available; and~~ available.

(4) The projects shall be operated to serve and benefit the public and there shall be no discrimination against any person based on race, creed, ~~color~~ color, or national origin.

(b) In making these determinations, the agency may consider the participating institution's experience and ratio of current assets to current liabilities; the participating institution's net worth, earnings trends, and coverage of fixed charges; the nature of the project involved; and any additional security for payment of the bonds and performance of the participating institution's obligations under the agreement of sale or lease or loan agreement, such as credit enhancement, insurance, guaranties, or property pledged to secure the payment and performance.

"§ *159D-41. Procedural requirements.*

Any participating institution ~~for higher education or any institution for elementary and secondary education~~ may submit to the agency, and the agency may consider, a proposal for financing a project using ~~such~~ forms and following ~~such~~ instructions ~~as may be~~ prescribed by the agency. ~~Such~~ The proposal shall set forth the type and location of the project and may include other information and data ~~available to the institution for higher education or the institution for elementary and secondary education~~ respecting the project and the extent to which ~~such~~ the project conforms to the criteria and requirements set forth in this ~~Chapter.~~ Article. The agency may request the ~~institution for higher education or the institution for elementary and secondary education~~ applicant to provide additional information and data respecting the project. The agency is authorized to make or cause to be made ~~such~~ any investigation, surveys, studies, reports and reviews as in its judgment are necessary and desirable to determine the feasibility and desirability of the project, the extent to which the project will contribute to the health and welfare of the area in which it will be located, the powers, experience, background, financial condition, record of service and capability of the management of the ~~institution for higher education or the institution for elementary and~~

~~secondary education,~~ applicant, the extent to which the project otherwise conforms to the criteria and requirements of this ~~Chapter,~~ Article, and ~~such~~ any other factors ~~as may be deemed~~ the agency considers relevant or convenient in carrying out the purposes of this ~~Chapter.~~ Article.

"*§ 159D-42. Operations of projects; agreements of sale on leases; conveyance of interest in projects.*

(a) The agency may sell or lease any project to a participating institution for operation and maintenance or lend money to any participating institution ~~in such manner as shall~~ to effectuate the purposes of this ~~Chapter,~~ Article, under a loan agreement or an agreement of sale or lease in form and substance not inconsistent ~~herewith. Any such~~ with this Article. The loan agreement or agreement of sale or lease may include provisions that:

(1) The participating institution shall, at its own expense, operate, repair and maintain the project covered by ~~such agreement;~~ the agreement.

(2) The purchase price payments to be made under the agreement of sale, the rent payable under the agreement of lease or the loan repayments under the loan agreement shall in the aggregate be not less than an amount sufficient to pay all of the interest, principal and any redemption premium on the bonds or notes issued by the agency to pay the cost of the project sold or leased ~~thereunder~~ or with respect to which the loan was ~~made;~~ made.

(3) The participating institution shall pay all other costs incurred by the agency in connection with the providing of the project covered by any ~~such~~ agreement, except ~~such~~ costs ~~as may be~~ paid out of the proceeds of bonds or notes or otherwise, ~~including, but without limitation,~~ including insurance costs, the cost of administering the resolution authorizing the issuance of, or any trust agreement securing, ~~such~~ the bonds or notes and the fees and expenses of trustees, paying agents, attorneys, ~~consultants and others;~~ consultants, and others.

(4) The loan agreement or the agreement of sale or lease shall terminate not earlier than the date on which all ~~such~~ bonds and all other obligations incurred by the agency in connection with the project covered by ~~any such~~ the agreement are retired or provision for ~~such~~ their retirement is ~~made; and~~ made.

(5) The obligation of the participating institution to make loan repayments or purchase price payments or to pay rent shall not be subject to cancellation, termination or abatement by the participating institution until the bonds have been retired or provision has been made for ~~such~~ their retirement.

(b) If the agency has acquired a possessory or ownership interest in any project it has undertaken on behalf of a participating institution, it shall promptly convey, without the payment of any consideration, all

its right, title and interest in ~~such~~ the project to ~~such~~ that participating institution upon the retirement or provision for the retirement of all bonds or notes issued and obligations incurred by the agency in connection with ~~such~~ that project.

"*§ 159D-43. Construction contracts.*

If the agency determines that the purposes of this ~~Chapter~~ Article will be more effectively served, the agency in its discretion may award or cause to be awarded contracts for the construction of any project on behalf of a participating institution upon a negotiated basis as determined by the agency. The agency shall prescribe ~~such~~ any bid security requirements and other procedures in connection with the award of ~~such~~ the contracts as in its judgment ~~shall~~ will protect the public interest. The agency may by written contract engage the services of the participating institution in the construction of ~~such~~ the project and may provide in ~~any such~~ the contract that ~~such~~ the participating institution, subject to ~~such~~ any conditions and requirements consistent with the provisions of this ~~Chapter~~ Article ~~as shall be~~ prescribed in ~~such~~ the contract, may act as an agent of, or an independent contractor for, the agency for the performance of the functions described ~~therein,~~ in the contract including the acquisition of the site and other real property for ~~such~~ the project, the preparation of plans, specifications and contract documents, the award of construction and other contracts upon a competitive or negotiated basis, the construction of ~~such~~ the project directly by ~~such~~ the participating institution, the inspection and supervision of construction, the employment of engineers, architects, builders and other contractors and the provision of money to pay the cost ~~thereof~~ of these functions pending reimbursement by the agency. ~~Any such~~ The contract may provide that the agency may, out of proceeds of bonds or notes, make advances to or reimburse the participating institution for its costs incurred in the performance of ~~such~~ these functions, and shall set forth the supporting documents required to be submitted to the agency and the reviews, examinations and audits that ~~shall be~~ are required in connection ~~therewith~~ to assure compliance with the provisions of this ~~Chapter~~ Article and ~~such~~ the contract.

"*§ 159D-44. Credit of State not pledged.*

Bonds or notes issued under the provisions of this ~~Chapter~~ Article shall not be secured by a pledge of the faith and credit of the State or of any political subdivision ~~thereof or be deemed to~~ of the State, or create an indebtedness of the State, or of any ~~such~~ political subdivision ~~thereof,~~ of the State requiring any voter approval, but shall be payable solely from the revenues and other funds provided ~~therefor.~~ for payment. Each bond or note issued under this ~~Chapter~~ Article shall contain on ~~the face thereof~~ its face a statement to the effect that the agency ~~shall not be~~ is not obligated to pay ~~the same~~ it nor the interest ~~thereon~~ on it except from the revenues and other funds pledged ~~therefor~~ for its payment and that neither the faith and credit nor the taxing power of the State or of any political subdivision ~~thereof~~ of the

State is pledged as security for the payment of the principal of or the interest on ~~such~~ the bond or note.

Expenses incurred by the agency in carrying out the provisions of this ~~Chapter~~ Article may be made payable from funds provided pursuant to, or made available for use under, this ~~Chapter~~ Article and no liability shall be incurred by the agency ~~hereunder~~ under this Article beyond the extent to which moneys ~~shall~~ have been so provided.

"§ *159D-45. Bonds and notes.*

(a) The agency is ~~hereby~~ authorized to provide for the issuance, at one time or from time to time, of bonds, or notes in anticipation of the issuance of bonds, of the agency to carry out and effectuate its corporate purposes. The principal of and the interest on such bonds or notes shall be payable solely from funds provided under this ~~Chapter~~ Article for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or other funds provided therefor. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the agency at such price or prices and upon such terms and conditions as may be determined by the agency. The bonds may also be made payable from time to time on demand or tender for purchase by the owner upon such terms and conditions as may be determined by the agency. Any such bonds or notes shall bear interest at such rate or rates (including variable rates) as may be determined by the Local Government Commission ~~of North Carolina~~ with the approval of the agency. Notes shall mature at such time or times not exceeding 10 years from their date or dates and bonds shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the agency. The agency shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature ~~shall appear~~ appears on any bonds or notes or coupons attached ~~thereto shall cease to be such~~ to them ceases to be that officer before ~~the delivery thereof, such~~ their delivery, the signature or ~~such~~ facsimile shall nevertheless be valid and sufficient for all purposes the same as if ~~he~~ the officer had remained in office until ~~such~~ delivery. The agency may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the agency may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. No bonds or notes may be

issued by the agency under this ~~Chapter~~ Article unless the issuance thereof is approved by the Local Government ~~Commission of North Carolina.~~ Commission.

(b) The agency shall file with the Secretary of the Local Government Commission an application requesting approval of the issuance of ~~such~~ the bonds or ~~notes which shall contain such~~ notes. The application must include any information and ~~have attached to it such~~ documents concerning the proposed financing and prospective borrower, vendee or lessee ~~as the Secretary may require.~~ required by the Secretary.

In determining whether a proposed bond or note issue should be approved, the Local Government Commission may consider, in addition to the criteria and requirements ~~mentioned~~ in this ~~Chapter,~~ Article, the effect of the proposed financing upon any scheduled or proposed sale of tax-exempt obligations by the State or any of its agencies or departments or by any unit of local government in the State.

The Local Government Commission shall approve the issuance of ~~such~~ the bonds or notes if, upon the information and evidence it receives, it finds ~~and determines~~ that the proposed financing will effectuate the purposes of this ~~Chapter.~~ Article.

Upon the filing with the Local Government Commission of a resolution of the agency requesting that its bonds or notes be sold, ~~such~~ the bonds or notes may be sold in such manner, either at public or private sale, and for such price as the Local Government Commission ~~shall determine~~ determines to be for the best interests of the agency and to effectuate best the purposes of this ~~Chapter,~~ Article, ~~provided that such sale shall be~~ as long as the sale is approved by the agency.

(c) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions, if any, as the agency may provide in the resolution authorizing the issuance of, or any trust agreement securing, ~~such~~ the bonds or notes.

(d) Prior to the preparation of definitive bonds, the agency may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds, when ~~such bonds shall~~ the bonds have been executed and are available for delivery. The agency may also provide for the replacement of any bonds or notes which ~~shall~~ become mutilated or ~~shall be~~ are destroyed or lost.

(e) Bonds or notes may be issued under the provisions of this ~~Chapter~~ Article without obtaining, except as otherwise expressly provided in this ~~Chapter,~~ Article, the consent of any department, division, commission, board, body, bureau or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things ~~which are~~ specifically required by this ~~Chapter~~ Article and the provisions of the

resolution authorizing the issuance of, or any trust agreement securing, ~~such~~ the bonds or notes.

(f) Before the issuance of bonds pursuant to this Article to finance a project, the Agency shall hold a public hearing with respect to the proposed project and the issuance of the bonds to finance the proposed project. The public hearing may be held at any location designated by the Agency, including at the offices of the Agency in Raleigh, North Carolina.

The public hearing may be conducted by the Agency or by a hearing officer designated by the Agency to conduct public hearings. Notice of the public hearing must be published at least once in at least one newspaper of general circulation in the county where the proposed project is to be located not less than 14 days before the public hearing. The notice must describe generally the bonds proposed to be issued and the proposed project, including its general location, and any other information the Agency considers appropriate. A copy of the notice of public hearing must be mailed to the clerk of the Board of Commissioners of the county in which the proposed project is to be located and to the governing body of any city or town in which the proposed project is to be operated.

"*§ 159D-46. Trust agreement or resolution.*

In the discretion of the agency any bonds or notes issued under the provisions of this ~~Chapter~~ Article may be secured by a trust agreement by and between the agency and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution authorizing the issuance of such bonds or notes may pledge or assign all or any part of the revenues of the agency received pursuant to this ~~Chapter,~~ Article, including, without limitation, fees, loan repayments, purchase price payments, rents, charges, insurance proceeds, condemnation awards and any other revenues and funds received in connection with any project and may grant a deed of trust or a mortgage on any project. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any such bonds or notes as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the agency in relation to the purposes to which bond or note proceeds may be applied, the disposition or pledging of the revenues of the agency, including any payments in respect of any federally guaranteed security or any federally insured mortgage note, the duties of the agency with respect to the acquisition, construction, maintenance, repair and operation of any project, the fees, loan repayments, purchase price payments, rents and charges to be fixed and collected in connection therewith, the terms and conditions for the issuance of additional bonds or notes, and the custody, safeguarding and application of all moneys. All bonds issued under this ~~Chapter~~ Article shall be equally and ratably secured by a pledge, charge, and lien upon revenues provided for in such trust agreement or resolution, without priority by reason of number, or of dates of bonds, execution,

or delivery, in accordance with the provisions of this ~~Chapter~~ Article and of such trust agreement or resolution; except that the agency may provide in such trust agreement or resolution that bonds issued pursuant thereto shall to the extent and in the manner prescribed in such trust agreement or resolution be subordinated and junior in standing, with respect to the payment of principal and interest and the security thereof, to any other bonds. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depositary of the proceeds of bonds or notes, revenues or other money hereunder to furnish such indemnifying bonds or to pledge such securities as may be required by the agency. Any such trust agreement or resolution may set off the rights and remedies, including foreclosure of any deed of trust or mortgage, of the holders of any bonds or notes and of the trustee, and may restrict the individual right of action by any such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the agency ~~may deem~~ considers reasonable and proper for the security of the holders of any bonds or notes. Expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of any project or paid from the revenues pledged or assigned to the payment of the principal of and the interest on bonds or notes or from any other funds available to the agency.

"*§ 159D-47. Revenues; pledges of revenues.*

(a) The agency is ~~hereby~~ authorized to fix and to collect fees, loan repayments, purchase price payments, rents and charges for the use of any project, and any part or section ~~thereof,~~ of the project and to contract with any participating institution for ~~the use thereof.~~ its use. The agency may require that the participating institution ~~shall~~ operate, repair or maintain such project and ~~shall~~ bear the cost ~~thereof~~ and other costs of the agency in connection ~~therewith,~~ with the project all as may be provided in the agreement of sale or lease, loan agreement or other contract with the agency, in addition to other obligations imposed under ~~such~~ the agreement or contract.

(b) The fees, loan repayments, purchase price payments, rents and charges shall be fixed so as to provide a fund sufficient, with any other available funds, ~~such other funds as may be made available therefor,~~ (i) to pay the costs of operating, repairing and maintaining the project to the extent that adequate provision for the payment of such costs has not otherwise been provided for, (ii) to pay the principal of and the interest on all bonds or notes as ~~the same shall~~ they become due and payable and (iii) to create and maintain any reserves provided for in the resolution authorizing the issuance of, or any trust agreement securing, ~~such bonds; and such~~ the bonds. The fees, loan repayments, purchase price payments, rents and charges may be applied or pledged to the payment of debt service on the bonds prior to the payment of the costs of operating, repairing and maintaining the project.

(c) All pledges of fees, loan repayments, purchase price payments, rents, charges and other revenues under the provisions of this ~~Chapter~~

Article ~~shall be~~ are valid and binding from the time when ~~such pledges~~ they are made. All ~~such~~ revenues so pledged and thereafter received by the agency ~~shall~~ are immediately ~~be~~ subject to the lien of ~~such~~ the pledge without any physical delivery ~~thereof~~ or further act, and the lien of ~~any such~~ the pledge ~~shall be~~ is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the agency, irrespective of whether ~~such~~ the parties have notice ~~thereof.~~ of it. The resolution or any trust agreement by which a pledge is created or any loan agreement, agreement of sale or lease need not be filed or recorded except in the records of the agency.

(d) The State of North Carolina ~~does pledge to and agree~~ pledges to and agrees with the holders of any bonds or notes issued by the agency that so long as any of ~~such~~ the bonds or notes are outstanding and unpaid the State will not limit or alter the rights vested in the agency at the time of issuance of the bonds or notes to fix, revise, charge, and collect or cause to be fixed, revised, charged and collected loan repayments, purchase price payments, rents, fees and charges for the use of or services rendered by any project in connection with which the bonds or notes were issued, so as to provide a fund sufficient, with ~~such other funds as may be made available therefor,~~ any other available funds to pay the costs of operating, repairing and maintaining the project, to pay the principal of and the interest on all bonds and notes as ~~the same shall~~ they become due and ~~payable and~~ payable, to create and maintain any reserves provided ~~therefor~~ for their payment, and to fulfill the terms of any agreements made with the bondholders or ~~noteholders, nor will the State~~ noteholders. The State will not in any way impair the rights and remedies of the bondholders or noteholders until the bonds or notes and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders, are fully paid, met and discharged.

"§ *159D-48. Trust funds.*

Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this ~~Chapter,~~ Article, ~~including, without limitation,~~ including fees, loan repayments, purchase price payments, rents, charges, insurance proceeds, condemnation awards and any other revenues and funds received in connection with any project, ~~shall be deemed to be~~ are trust funds to be held and applied solely as provided in this ~~Chapter.~~ Article. The resolution authorizing the issuance of, or any trust agreement securing, any bonds or notes may provide that any of ~~such~~ these moneys may be temporarily invested pending ~~the~~ their disbursement ~~thereof~~ and shall provide that any officer with whom, or any bank or trust company with which, such moneys ~~shall be~~ are deposited shall act as trustee of such moneys and shall hold and apply ~~the same~~ them for the purposes of this ~~Chapter,~~ Article, subject to ~~such~~ any limitations ~~as~~ provided in this ~~Chapter~~ Article and ~~such~~ in the resolution or trust ~~agreement may provide. Any such~~ agreement. The

moneys may be invested as provided in G.S. 159-30, as it may from time to time be amended.

"§ *159D-49. Remedies.*

Any holder of bonds or notes issued under the provisions of this ~~Chapter~~ Article or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such bonds or notes, except to the extent the rights herein given may be restricted by such trust agreement or resolution, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted hereunder or under such trust agreement or resolution, or under any other contract executed by the agency pursuant to this ~~Chapter,~~ Article, and may enforce and compel the performance of all duties required by this ~~Chapter~~ Article or by such trust agreement or resolution to be performed by the agency or by any officer ~~thereof.~~ of the agency.

"§ *159D-50. Investment securities.*

All bonds, notes and interest coupons ~~appertaining thereto~~ issued under this ~~Chapter~~ Article are ~~hereby made~~ investment securities within the meaning of and for all the purposes of Article 8 of the Uniform Commercial Code as enacted in this State, whether or not they are of such form and character as to be investment securities under ~~said Article 8,~~ that Article, subject only to the provisions of the bonds and notes pertaining to registration.

"§ *159D-51. Bonds or notes eligible for investment.*

Bonds or notes issued under the provisions of this ~~Chapter~~ Article are ~~hereby made~~ securities in which all public officers and public bodies of the State and its political subdivisions, and all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. ~~Such~~ These bonds or notes are ~~hereby made~~ securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds, notes or obligations of this State is ~~now or may hereafter be~~ authorized by law.

"§ *159D-52. Refunding bonds or notes.*

(a) The agency is ~~hereby~~ authorized to provide for the issuance of refunding bonds or notes for the purpose of refunding any bonds or notes then outstanding which ~~shall~~ have been issued under the provisions of this ~~Chapter,~~ Article, including the payment of any redemption premium ~~thereon~~ and any interest accrued or to accrue to the date of redemption of ~~such~~ the bonds or notes and, if ~~deemed~~ considered advisable by the agency, for any corporate purpose of the agency, including, without limitation:

(1) Constructing improvements, additions, extensions or enlargements of the project in connection with which the bonds or notes to be refunded shall have been issued, and

(2) Paying all or any part of the cost of any additional project.

(b) The issuance of ~~such~~ refunding bonds or notes, ~~the~~ their maturities and other ~~details thereof,~~ details the rights of ~~the holders thereof,~~ their holders, and the rights, duties and obligations of the agency ~~in respect of the same shall be~~ are governed by the provisions of this ~~Chapter~~ Article which relate to the issuance of bonds or notes, ~~insofar as such provisions may be appropriate therefor.~~ as appropriate.

Refunding bonds ~~or notes~~ may be sold or exchanged for outstanding bonds ~~or notes~~ issued under this ~~Chapter~~ Article and, if sold, ~~the proceeds thereof~~ their proceeds, and investment earnings on them, may be applied, ~~in addition to any other authorized purposes,~~ with any other available funds, to the purchase, ~~redemption~~ redemption, or payment of ~~such~~ the bonds ~~or notes, with any other available funds,~~ being refunded, to the payment of ~~the principal, accrued interest and any redemption premium on the bonds or notes being refunded, and, if so provided or permitted in the resolution authorizing the issuance of, or in the trust agreement securing, such bonds or notes, to the payment of~~ any interest on ~~such~~ the refunding ~~bonds or notes~~ bonds, and to the payment of any expenses in connection with ~~such~~ the refunding. ~~Such~~ The proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America ~~which shall~~ if the obligations mature or ~~which shall be~~ are subject to redemption by ~~the holders thereof, at the option of such holders,~~ the holders, at their option not later than the respective dates when the proceeds, together with the interest accrued thereon, will be required for the purposes intended.

"§ 159D-53. Annual report.

The agency shall, promptly following the close of each fiscal year, submit an annual report of its activities under this ~~Chapter~~ Article for the preceding year to the Governor, the State Auditor, the General Assembly, the Advisory Budget Commission and the Local Government Commission. The agency shall cause an audit of its books and accounts relating to its activities under this ~~Chapter~~ Article to be made at least once in each year by an independent certified public accountant and the cost ~~thereof~~ of the audit may be paid from any available moneys of the agency.

"§ 159D-54. Officers not liable.

No member or officer of the agency shall be subject to any personal liability or accountability by reason of ~~his~~ the issuance or execution of any bonds or ~~notes or the issuance thereof.~~ notes.

"§ 159D-55. Tax exemption.

The exercise of the powers granted by this ~~Chapter~~ Article will be in all respects for the benefit of the people of the State and will promote their health and ~~welfare, and no tax or assessment shall be levied upon any project undertaken by the agency prior to the retirement or provision for the retirement of all bonds or notes issued and obligations incurred by the agency in connection with such project.~~ welfare.

Any bonds or notes issued by the agency under the provisions of this ~~Chapter~~ Article ~~shall~~ are at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift taxes, income taxes on the gain from the transfer of the bonds and notes, and franchise taxes. The interest on the bonds and notes is not subject to taxation as income.

"*§ 159D-56. Conflict of interest.*

If any member, officer or employee of the agency ~~shall be~~ is interested either directly or indirectly, or ~~shall be~~ is an officer or employee of or ~~have~~ has an ownership interest in any firm or corporation interested directly or indirectly, in any contract with the agency, ~~such~~ this interest shall be disclosed to the agency and shall be set forth in the minutes of the agency, and the member, officer or employee having ~~such~~ an interest ~~therein~~ in a contract shall not participate on behalf of the agency in the authorization of ~~any such~~ the contract.

"*§ 159D-57. Additional method.*

The foregoing sections of this ~~Chapter~~ Article ~~shall be deemed to~~ provide an additional and alternative method for the doing of the things authorized ~~thereby and shall be regarded as~~ and are supplemental and additional to powers conferred by other ~~laws,~~ laws. ~~and shall not be regarded as in derogation of any powers now existing; provided, however, that the~~ This Article does not derogate any existing powers. The issuance of bonds or notes under the provisions of this ~~Chapter~~ Article need not comply with the requirements of any other law applicable to the issuance of bonds or notes."

Section 3. G.S. 159C-3 reads as rewritten:

"*§ 159C-3. Definitions.*

The following ~~terms, whenever used or referred to in this Chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:~~ definitions apply in this Chapter:

(1) ~~"Agency" shall include any~~ Agency. -- Any agency, bureau, commission, ~~department~~ department, or instrumentality.

(2) ~~"Air pollution control facility" shall mean any~~ Air pollution control facility. -- Any structure, ~~equipment~~ equipment, or other facility for, including any increment in the cost of any structure, ~~equipment~~ equipment, or facility attributable to, the purpose of treating, ~~neutralizing~~ neutralizing, or reducing gaseous industrial waste and other air pollutants, including recovery, treatment, ~~neutralizing~~ neutralizing, or stabilizing plants and equipment and their appurtenances, which ~~shall~~ have been certified by the ~~agency~~ government entity having jurisdiction to be in furtherance of the purpose of abating or controlling atmospheric pollutants or contaminants.

(3) ~~"Bonds" shall mean revenue~~ Bonds. -- Revenue bonds of an authority issued under the provisions of this Chapter.

(4) ~~"Cost"~~ Cost. -- This term as applied to any project ~~shall embrace~~ embraces all capital costs ~~thereof,~~ of the project, including ~~the~~ all of the following:

a. The cost of ~~construction, the~~ construction.

b. The cost of acquisition of all property, including rights in land and other property, ~~both~~ real and personal and improved and ~~unimproved, the~~ unimproved.

c. The cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which ~~such~~ those buildings or structures may be moved or ~~relocated, the~~ relocated.

d. The cost of all machinery and equipment, installation, start-up expenses, financing charges, and interest prior to, during and for a period not exceeding one year after completion of ~~construction, the~~ construction.

e. The cost of engineering and architectural surveys, plans and ~~specifications, the~~ specifications.

f. The cost of consultants' and legal services, other expenses necessary or incident to determining the feasibility or practicability of ~~such~~ the project, administrative and other expenses necessary or incident to the acquisition or construction of ~~such~~ the project and the financing of the acquisition and construction ~~thereof,~~ of the project.

~~(5) "Governing body" shall mean the board, commission, council or other body in which the general legislative powers of any county or other political subdivision are vested.~~

(6) ~~"Financing agreement" shall mean a~~ Financing agreement. -- A written instrument establishing the rights and responsibilities of the authority, operator, and obligor with respect to a project financed by the issuance of bonds. A financing agreement may be in the nature of a lease, a lease and leaseback, a sale and leaseback, a lease purchase, an installment sale and purchase agreement, a conditional sales agreement, a secured or unsecured loan agreement or other similar contract and may involve property in addition to the property financed with the bonds.

(6a) Governing body. -- The board, commission, council, or other body in which the general legislative powers of any county or other political subdivision are vested.

(6b) Industrial project. -- Any industrial or manufacturing factory, mill, assembly plant, or fabricating plant; freight terminal; industrial research, development, or laboratory

facility; industrial processing facility; or distribution facility for industrial or manufactured products.

(7) ~~"Obligor" shall mean any person or persons,~~ Obligor. -- Any person, which may include the operator, who ~~shall be~~ is obligated under a financing agreement or guaranty agreement or other contract or agreement to make payments to, or for the benefit of, the holders of bonds of the authority. Any requirement of an obligor may be satisfied by any one or more persons who are defined collectively by this Chapter as the obligor.

(8) ~~"Operator" shall mean the~~ Operator. -- The person entitled to the use or occupancy of a project.

(9) ~~"Political subdivision" shall mean any~~ Political subdivision. -- Any county, city, town, other unit of local government or any other governmental corporation, ~~agency, authority~~ authority, or instrumentality of the State now or hereafter existing.

(10) ~~"Pollution" and "pollutants" shall mean any~~ Pollution or pollutants. -- Any noxious or deleterious substances in any air or waters of or adjacent to the State of North Carolina or affecting the physical, chemical or biological properties of any air or waters of or adjacent to the State of North Carolina in a manner and to an extent which renders or is likely to render ~~such~~ the air or waters harmful or inimical to the public health, safety or welfare, or to animal, bird or aquatic life, or to the use of such air or waters for domestic, industrial or agricultural purposes or recreation.

(10a) Pollution control project. -- Any air pollution control facility, water pollution control facility, or solid waste disposal facility if the facility is in connection with either an industrial project or a public utility plant.

(11) ~~"Project" shall mean any land, equipment or any~~ Project. -- Any land or equipment or one or more buildings or other structures, whether or not on the same site or sites, and any rehabilitation, improvement, renovation or enlargement of, or any addition to, any building or structure for use as or in connection with (i) any industrial ~~project for industry which project may be any industrial or manufacturing factory, mill, assembly plant or fabricating plant, or freight terminal, or industrial research, development or laboratory facility, or industrial processing facility or distribution facility for industrial or manufactured products, or~~ project, (ii) any pollution control project for industry or for public ~~utilities which project may be any air pollution control facility, water pollution control facility, or solid waste disposal facility in connection with any factory, mill or plant described in clause (i) of this subdivision or in connection with a~~

~~public utility plant, or (iii)~~ utilities, (iii) any special purpose project, or (iv) any combination of projects mentioned in clauses ~~(i) and (ii)~~ (i) through (iii) of this subdivision. Any project may include all appurtenances and incidental facilities such as land, headquarters or office facilities, warehouses, distribution centers, access roads, sidewalks, utilities, railway sidings, trucking and similar facilities, parking facilities, landing strips and other facilities for aircraft, waterways, docks, wharves and other improvements necessary or convenient for the construction, maintenance and operation of any building or structure, or addition ~~thereto.~~ to it.

(12) ~~"Revenues" shall mean, with~~ Revenues. -- With respect to any project, the rents, fees, charges, payments, proceeds and other income or profit derived ~~therefrom~~ from the project or from the financing agreement or security document in connection ~~therewith.~~ with the project.

(13) ~~"Security document" shall mean a~~ Security document. -- A written instrument ~~or instruments~~ establishing the rights and responsibilities of the authority and the holders of bonds issued to finance a project, ~~and~~ which may provide for, or be in the form of an agreement with, a trustee for the benefit of ~~such~~ the bondholders. A security document may contain an assignment, pledge, mortgage or other encumbrance of all or part of the authority's interest in, or right to receive revenues with respect to, a project and any other property provided by the operator or other obligor under a financing agreement and may bear any appropriate title. A financing agreement and a security document may be combined as one instrument.

(14) ~~"Solid waste" shall mean solid~~ Solid waste. -- Solid waste materials resulting from any industrial or manufacturing activities or from any pollution control facility.

(15) ~~"Solid waste disposal facility" shall mean a~~ Solid waste disposal facility. -- A facility for the purpose of treating, burning, compacting, composting, storing or disposing of solid waste.

(15a) Special purpose project. -- Any structure, equipment, or other facility for any one or more of the following purposes:

a. Water systems or facilities, including all plants, works, instrumentalities, and properties used or useful in obtaining, conserving, treating, and distributing water for domestic or industrial use, irrigation, sanitation, fire protection, or any other public or private use.

b. Sewage disposal systems or facilities, including all plants, works, instrumentalities, and properties used or useful in the collection, treatment, purification, or

disposal of sewage, other than facilities constituting a water pollution control facility.

c. Public transportation systems, facilities, or equipment, including bus, truck, ferry, and railroad terminals, depots, trackages, vehicles, and ferries, and mass transit systems.

d. Public parking lots, areas, garages, and other public vehicular parking structures and facilities.

e. Public auditoriums, gymnasiums, stadiums, and convention centers.

f. Recreational facilities.

g. Land, equipment, and facilities for the disposal, treatment, or recycling of solid or other waste that are described in G.S. 159I-8.

h. Facilities for the provision of rehabilitation services, education, training, and employment opportunities for persons with disabilities and the disadvantaged. The term does not include a retail facility, however, unless the proposed operator of the facility certifies that at least seventy-five percent (75%) of its employees will be disadvantaged or disabled persons and at least seventy-five percent (75%) of its inventory will be composed of used, donated items and items manufactured by disadvantaged or disabled persons.

(16) ~~"Water pollution control facility" shall mean any~~ Water pollution control facility. -- Any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing liquid industrial waste and other water pollution, including collecting, treating, neutralizing, stabilizing, cooling, segregating, holding, recycling, or disposing of liquid industrial waste and other water pollution, including necessary collector, interceptor, and outfall lines and pumping stations, which ~~shall~~ have been certified by the agency exercising jurisdiction to be in furtherance of the purpose of abating or controlling water pollution."

Section 4. G.S. 159C-5 is amended by adding a new subdivision to read:

"*§ 159C-5. General powers.*

Each authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including, but without limiting the generality of the foregoing, the powers:

. . .

(7a) To acquire by purchase, lease, gift, or otherwise, but not by eminent domain, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, and interests in land less than the fee interest,

for the construction, operation, or maintenance of any project;

. . . ."

Section 5. G.S. 159C-6 reads as rewritten:

"*§ 159C-6. Bonds.*

(a) Each authority is authorized to provide for the issuance, at one time or from time to time, of bonds of the authority for the purpose of paying all or any part of the cost of any project. The principal of, the interest on and any premium payable upon the redemption of ~~such~~ the bonds shall be payable solely from the funds ~~herein authorized for such~~ authorized in this Article for their payment. The bonds of each issue shall bear interest as may be determined by the Local Government Commission ~~of North Carolina~~ with the approval of the authority and the obligor irrespective of the limitations of G.S. 24-1.1, as amended, and successor provisions. The bonds of each issue shall be dated, shall mature at ~~such~~ any time or times not exceeding 35 years after the date of their issuance, and may be made redeemable before maturity at ~~such~~ any price or prices and under ~~such~~ any terms and conditions, as may be fixed by the authority ~~prior to~~ before the issuance of the bonds. The authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached ~~thereto,~~ to them, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest. In case any officer whose signature ~~or a facsimile of whose signature appears on any bonds or coupons ceases to be that officer before the delivery of the bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes the same as if the person had remained in office until such delivery,~~ or a facsimile of whose signature appears on any bonds or coupons ceases to be that officer before the delivery of the bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery. The authority may also provide for the authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in coupon or in fully registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds.

(b) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of ~~the project or projects, or a portion thereof,~~ all or part of the project for which the bonds were issued, and shall be disbursed in ~~such~~ any manner and under ~~such~~ any restrictions, ~~if any,~~ as the authority may provide in the financing agreement and the security document. If the proceeds of the bonds of any issue, by reason of increased construction costs or error in estimates or otherwise, are less than ~~such~~ this cost, additional bonds may in like manner be issued to provide the amount of the deficiency.

(c) The proceeds of bonds shall not be used to refinance the cost of ~~a~~ an industrial project or a pollution control project. For the purposes of this section, a cost of ~~a~~ an industrial project or a pollution control project is considered refinanced if both of the following conditions are met:

(1) The cost is initially paid from sources other than bond proceeds, and the original expenditure is to be reimbursed from bond proceeds.

(2) The original expenditure was paid more than 60 days before the authority took some action indicating its intent that the expenditure would be financed or reimbursed from bond proceeds.

(d) ~~However,~~ Notwithstanding subsection (c) of this section, preliminary expenditures that are incurred prior to the commencement of the acquisition, construction, or rehabilitation of ~~a~~ an industrial project or a pollution control project, such as architectural costs, engineering costs, surveying costs, soil testing costs, bond issuance costs, and other similar costs, may be reimbursed from bond proceeds even if these costs are incurred or paid more than 60 days prior to the authority's action. This exception that allows preliminary expenditures to be reimbursed from bond proceeds, regardless of whether or not they are incurred or paid within 60 days of the authority's action, does not include costs that are incurred incident to the commencement of the construction of ~~a~~ an industrial project or a pollution control project, such as expenditures for land acquisition and site preparation. In any event, an expenditure in connection with an industrial project or a pollution control project originally paid before the authority took some action indicating its intent that the expenditures would be financed or reimbursed from bond proceeds may ~~only~~ be reimbursed from bond proceeds only if the authority finds that reimbursing those costs from bond proceeds will promote the purposes of this Chapter.

(e) An authority may make loans to an obligor to refund outstanding loans, obligations, deeds of trust, or advances issued, made, or given by the obligor for the cost of a special purpose project.

(f) The authority may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when ~~such~~ the bonds have been executed and are available for delivery. The authority may also provide for the replacement of any bonds that become mutilated or are destroyed or lost.

(g) Bonds may be issued under the provisions of this Chapter without obtaining, except as otherwise expressly provided in this Chapter, the consent of the State or of any political subdivision or of any agency of either, and without any other proceedings or the happening of any conditions or things other than those proceedings, ~~conditions~~ conditions, or things ~~which~~ that are specifically required by this Chapter and the provisions of the financing agreement and security document authorizing the issuance of ~~such bonds and securing the same.~~ the bonds and securing the bonds."

Section 6. G.S. 159C-7 reads as rewritten:

"§ 159C-7. *Approval of ~~project~~ industrial projects and pollution control projects by Secretary of Commerce.*

(a) Approval Required. -- No bonds may be issued by an authority to finance an industrial project or a pollution control project unless the project for which their issuance is proposed is first approved by the Secretary of Commerce. The authority shall file an application for approval of its proposed industrial project or pollution control project with the Secretary of Commerce, and shall notify the Local Government Commission of ~~such~~ the filing.

(b) Findings. -- The Secretary shall not approve any proposed industrial project or pollution control project unless the Secretary makes all of the following, applicable findings:

(1) In the case of a proposed industrial project,
   a. That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage that (i) is above the average weekly manufacturing wage paid in the county, or (ii) is not less than ten percent (10%) above the average weekly manufacturing wage paid in the State, and
   b. That the proposed project will not have a materially adverse effect on the environment.

(2) In the case of a proposed pollution control project, that ~~such~~ the project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur.

(2a) In the case of a hazardous waste facility or low-level radioactive waste facility that is used as a reduction, recovery or recycling facility, that such project will further the waste management goals of North Carolina and will not have an adverse effect upon public health or a significant adverse effect on the environment.

(3) In ~~any case (whether the proposed project is~~ the case of an industrial project or a pollution control ~~project),~~ project, except a pollution control project for a public utility,
   a. That the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project,
   b. That the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate ~~such~~ the project, and
   c. That the financing of ~~such~~ the project by the authority will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned because of

obsolescence, lack of available labor in the area, or site limitations.

(b1) Initial Operator. -- If the initial proposed operator of ~~a~~ an industrial project or a pollution control project is not expected to be the operator for the term of the bonds proposed to be issued, the Secretary may make the findings required pursuant to subdivisions ~~(1)a.~~ (b)(1)a. and (3)b. of this section only with respect to the initial operator. The initial operator shall be identified in the application for approval of the proposed project.

(c) Public Hearing. -- The Secretary of Commerce shall not approve any proposed industrial project or pollution control project pursuant to this section unless the governing body of the county in which the project is located has first conducted a public hearing and, at or after the public hearing, approved in principle the issuance of bonds under this Chapter for the purpose of paying all or part of the cost of the proposed project. Notice of the public hearing shall be published at least once in at least one newspaper of general circulation in the county not less than 14 days before the public hearing. The notice shall describe generally the bonds proposed to be issued and the proposed project, including its general location, and any other information the governing body considers appropriate or the Secretary of Commerce prescribes for the purpose of providing the Secretary with the views of the community. The notice shall also state that following the public hearing the authority intends to file an application for approval of the proposed project with the Secretary of Commerce.

(d) Certificate of Department of Environment and Natural Resources. -- The Secretary of Commerce shall not make the findings required by subdivisions (b)(1)b and (2) of this section unless the Secretary has first received a certification from the Department of Environment and Natural Resources that, in the case of a proposed industrial project, the proposed project will not have a materially adverse effect on the environment and that, in the case of a proposed pollution control project, the proposed project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur. The Secretary of Commerce shall not make the findings required by subdivision (2a) unless the Secretary has first received a certification from the Department of Environment and Natural Resources that the proposed project is environmentally sound, will not have an adverse effect on public health and will further the waste management goals of North Carolina. The Secretary of Commerce shall deliver a copy of the application to the Department of Environment and Natural Resources. The Department of Environment and Natural Resources shall provide each certification to the Secretary of Commerce within seven days after the applicant satisfactorily demonstrates to it that all permits, including environmental permits, necessary for the construction of the proposed project have been obtained, unless the authority consents to a longer period of time.

(e) Waiver of Wage Requirement. -- If the Secretary of Commerce has made all of the required findings respecting a proposed industrial project except that prescribed in ~~subparagraph~~ subdivision (b)(1)a of this section, the Secretary may, in the Secretary's discretion, approve the proposed industrial project if the Secretary has received (i) a resolution of the governing body of the county requesting that the proposed industrial project be approved notwithstanding that the operator will not pay an average weekly manufacturing wage above the average weekly manufacturing wage in the county and (ii) a letter from an appropriate State official, selected by the Secretary, to the effect that unemployment in the county is especially severe.

(f) Rules. -- To facilitate review of each proposed industrial project or pollution control project, the Secretary may require the authority to obtain and submit ~~such~~ any data and information about ~~such~~ the project ~~as~~ the Secretary may prescribe. The Secretary may also prescribe ~~such~~ forms and ~~such~~ rules ~~as~~ the Secretary considers reasonably necessary to implement the provisions of this section.

(g) Certificate of Approval. -- If the Secretary approves the proposed industrial project or pollution control project, the Secretary shall prepare a certificate of approval evidencing ~~such~~ the approval and setting forth the findings and shall cause the certificate of approval to be published in a newspaper of general circulation within the county. ~~Any such~~ This approval shall be reviewable as provided in Article 4 of Chapter 150B of the General Statutes ~~of North Carolina~~ only by an action filed, within 30 days after notice of ~~such~~ the findings and approval ~~shall~~ have been so published, in the Superior Court of Wake County. The superior court is ~~hereby~~ vested with jurisdiction to hear ~~such~~ the action, but if no ~~such~~ action is filed within the 30 days ~~herein~~ prescribed, the validity of ~~such~~ the approval ~~shall be~~ is conclusively presumed, and no court ~~shall have~~ has authority to inquire into ~~such~~ the approval. Copies of the certificate of approval of the proposed industrial project or pollution control project will be given to the authority, the ~~governing body of the county~~ board of county commissioners, and the Secretary of the Local Government Commission.

The certificate of approval ~~shall become~~ becomes effective immediately following the expiration of the 30-day period or the expiration of any appeal period after a final determination by any court of any action timely filed pursuant to this section. The certificate ~~shall expire~~ expires one year after its date unless extended by the Secretary who shall not extend the certificate unless the Secretary again approves the proposed industrial project or pollution control project as provided in this section. If bonds are issued within that year pursuant to the authorization of this Chapter to pay all or part of the costs of the industrial project or pollution control project, however, the certificate ~~shall expire~~ expires three years after the date of the first issuance of the bonds."

Section 7. G.S. 159C-8 reads as rewritten:

"*§ 159C-8. Approval of bonds.*

(a) No bonds may be issued by an authority unless the issuance ~~thereof~~ of the bonds is first approved by the Local Government Commission.

The authority shall file an application for approval of its proposed bond issue with the Secretary of the Local Government Commission, and shall notify the Secretary of ~~the Department of~~ Commerce of ~~such filing,~~ the filing if the project is an industrial project or pollution control project.

(b) In determining whether a proposed bond issue should be approved, the Local Government Commission may ~~consider, without limitation,~~ consider any of the following:

(1) Whether the proposed operator and obligor have demonstrated or can demonstrate the financial responsibility and capability to fulfill their obligations with respect to the financing agreement. In making such determination, the Commission may consider the operator's experience and the obligor's ratio of current assets to current liabilities, net worth, earnings trends and coverage of fixed charges, the nature of the industry or business involved and its stability and any additional security such as credit enhancement, insurance, guaranties or property to be pledged to secure such bonds.

(2) Whether the political subdivisions in or near which the proposed project is to be located have the ability to cope satisfactorily with the impact of ~~such~~ the project and to provide, or cause to be provided, the public facilities and services, including utilities, that will be necessary for ~~such~~ the project and on account of any increase in population which are expected to result ~~therefrom.~~ from the project.

(3) Whether the proposed date and manner of sale will have an adverse effect upon any scheduled or anticipated sale of obligations by the State or any political subdivision or any agency of either of them.

(4) Any other factors the Commission considers relevant.

(c) The Local Government Commission shall not approve the issuance of bonds for a special purpose project unless the governing body of the county in which the special purpose project is located has conducted a public hearing and, at or after the public hearing, approved in principle the issuance of bonds under this Chapter for the purposes of paying all or a part of the proposed special purpose project. Notice of the public hearing must be published at least once in at least one newspaper of general circulation in the county not less than 14 days before the public hearing. The notice must describe generally the bonds proposed to be issued and the proposed special purpose project, including its general location, and any other information the governing body considers appropriate.

(d) If the initial proposed operator of the project is not expected to be the operator for the term of the bonds proposed to be issued, the Local Government Commission may consider the matters required

under subdivision ~~(1)~~ (b)(1) of this section only with respect to the initial operator. The obligor shall be obligated to perform all of the duties of the obligor required hereunder during the term the bonds are outstanding. The Local Government Commission shall evaluate the obligor's ability to perform these duties without regard to whether the initial proposed operator of the project is expected to be the operator for the term of the bonds proposed to be issued. To facilitate the review of the proposed bond issue by the Commission, the Secretary may require the authority to obtain and submit ~~such~~ any financial data and information about the proposed bond issue and the security ~~therefor,~~ for it, including the proposed prospectus or offering circular, the proposed financing agreement and security document and annual and other financial reports and statements of the obligor, as the Secretary may prescribe. The Secretary may also prescribe ~~such forms and such rules and regulations as he shall deem~~ any forms and rules the Secretary considers reasonably necessary to implement the provisions of this section. "

Section 8. G.S. 159C-11 reads as rewritten:

"§ *159C-11. Financing agreements.*

(a) Every financing agreement shall provide that:

(1) The amounts payable under the financing agreement shall be sufficient to pay all of the principal of and redemption premium, if any, and interest on the bonds ~~that shall be~~ issued by the authority to pay the cost of the project as ~~the same shall~~ they respectively become ~~due;~~ due.

(2) The obligor shall pay all costs incurred by the authority in connection with the financing and administration of the project, except as may be paid out of the proceeds of bonds or otherwise, ~~including, but without limitation,~~ including insurance costs, the cost of administering the financing agreement and the security document and the fees and expenses of the fiscal agent or trustee, paying agents, attorneys, consultants and ~~others;~~ others.

(3) The obligor shall pay all the costs and expenses of operation, maintenance and upkeep of the ~~project; and~~ project.

(4) The obligor's obligation to provide for the payment of the bonds in full ~~shall not be~~ is not subject to cancellation, termination or abatement until ~~such~~ payment of the bonds or provision for their payment has been ~~therefor shall be~~ made.

(5) If the proposed initial operator of the project is not expected to be the operator for the term of the bonds proposed to be issued, the financing agreement shall require that the obligor attempt to arrange for a new operator when the current operator discontinues serving as operator. The new operator is subject to the approval of the Secretary under subdivisions (b)(1)a. and (3)b. of G.S. 159C-7 ~~and~~ if the project is an industrial project or a pollution control project, and is subject in any event to the approval of the Local Government Commission under G.S. 159C-8.

(b) The financing agreement, if in the nature of a lease agreement, shall either provide that the obligor ~~shall have~~ has an option to purchase, or require that the obligor purchase, the project upon the expiration or termination of the financing agreement subject to the condition that payment in full of the principal of, and the interest and any redemption premium on, the bonds, or provision ~~therefor, shall have~~ for payment, has been made.

The financing agreement may provide the authority with rights and remedies in the event of a default by the obligor ~~thereunder including, without limitation,~~ under the agreement, including any one or more of the following:

(1) Acceleration of all amounts payable under the financing agreement;
(2) Reentry and repossession of the project;
(3) Termination of the financing agreement;
(4) Leasing or sale or foreclosure of the project to others; and
(5) Taking whatever actions at law or in equity may appear necessary or desirable to collect the amounts payable under, and to enforce covenants made in, the financing agreement.

(c) The authority's interest in a project under a financing agreement may be that of owner, lessor, lessee, conditional or installment vendor, mortgagor, mortgagee, secured party or otherwise, but the authority need not have any ownership or possessory interest in the project.

The authority may assign all or any of its rights and remedies under the financing agreement to the trustee or the bondholders under a security document.

~~Any such~~ The financing agreement may contain ~~such~~ any additional provisions ~~as in the determination of~~ the authority ~~are~~ considers necessary or convenient to effectuate the purposes of this Chapter."

Section 9. G.S. 159C-19 reads as rewritten:

"*§ 159C-19. Revenue refunding bonds.*

(a) Each authority is ~~hereby~~ authorized to provide by resolution for the issuance of refunding bonds of the authority for the purpose of refunding any bonds then outstanding that have been issued under the provisions of this Chapter, including the payment of any redemption premium ~~thereon~~ on them and any interest accrued or to accrue to the date of redemption of ~~such~~ the bonds, and, if deemed advisable by the authority, for either or both of the following additional purposes:

(1) Constructing improvements, additions, extensions or enlargements of the project or projects in connection with which the bonds to be refunded have been issued, and
(2) Paying all or any part of the cost of any additional project or projects.

(a1) The issuance of ~~such~~ these bonds, ~~the~~ their maturities and other ~~details thereof,~~ details, the rights of ~~the holders thereof,~~ their holders, and the rights, ~~duties~~ duties, and obligations of the authority in respect to ~~the same~~ them shall be governed by the provisions of this Chapter that relate to the issuance of bonds, ~~insofar as such provisions~~

~~may be appropriate therefor,~~ to the extent appropriate, including that ~~any such~~ the bonds may have a single maturity within the limit prescribed by G.S. 159C-6.

The approvals required by G.S. 159C-7 and 159C-8 shall be obtained prior to the issuance of any refunding ~~bonds; provided, however, that in the case where~~ bonds, except that if the refunding bonds of all or a portion of an issue are to be issued solely for the purpose of refunding outstanding bonds issued under this Chapter, the approval required by G.S. 159C-7 ~~shall not be~~ is not required as to the project financed with the bonds to be refunded.

(b) Refunding bonds issued under this section may be sold or exchanged for outstanding bonds issued under this Chapter and, if sold, ~~the proceeds thereof~~ their proceeds may be applied, in addition to any other authorized purposes, to the purchase, ~~redemption~~ redemption, or payment of ~~such~~ the outstanding bonds. Refunding bonds may be issued, in the determination of the authority, at any time ~~not more than five years prior to~~ before the date of maturity or maturities or the date selected for the redemption of the bonds being refunded ~~thereby.~~ by them. Pending the application of the proceeds of ~~such~~ the refunding bonds, with any other available funds, to the payment of the principal of and accrued interest and any redemption premium on the bonds being refunded, and, if so provided or permitted in the security document securing ~~the same,~~ them, to the payment of any interest on ~~such~~ the refunding bonds and any expenses in connection with ~~such~~ the refunding, ~~such~~ the proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America ~~which shall mature or which shall be~~ that mature or are subject to redemption by the ~~holder thereof,~~ holder, at the option of such holder, not later than the respective dates when the proceeds, together with the interest accruing ~~thereon,~~ on them, will be required for the purposes intended."

Section 10. The amendments to G.S. 159D-55, as recodified by this act, become effective with respect to obligations issued on or after August 1, 2000. The remainder of this act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law upon approval of the Governor at 10:16 a.m. on the 2nd day of August, 2000.

H.B. 1608 **SESSION LAW 2000-180**

AN ACT TO REQUIRE SUPERVISION OF FIRST-YEAR BAIL BONDSMEN AND RUNNERS; TO MAKE IT A CLASS I FELONY FOR A BONDSMAN TO KNOWINGLY AND WILLFULLY FAIL TO RETURN ANY COLLATERAL SECURITY VALUED AT MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS; TO REQUIRE THAT COLLATERAL

SECURITY IN THE FORM OF CASH OR NEGOTIABLE INSTRUMENTS BE HELD IN TRUST ACCOUNTS; TO PROVIDE FOR THE DISPOSITION OF OUTSTANDING BAIL BOND OBLIGATIONS UPON THE DEATH, INCAPACITATION, OR INCOMPETENCE OF A BAIL BONDSMAN; AND TO INCREASE THE MINIMUM SECURITIES DEPOSIT REQUIRED OF PROFESSIONAL BONDSMEN.

The General Assembly of North Carolina enacts:

Section 1. G. S. 58-71-1 is amended by adding a new subdivision to read:

"(4a) 'First-year licensee' means any person who has been licensed as a bail bondsman or runner under this Article and who has held the license for a period of less than 12 months."

Section 2. G. S. 58-71-1 is amended by adding a new subdivision to read:

"(9a) 'Supervising bail bondsman' means any person licensed by the Commissioner as a professional bondsman or surety bondsman who employs or contracts with any new licensee under this Article."

Section 3. Article 71 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-71-41. First-year licensees; limitations.*

(a) Except as provided in this section, a first-year licensee shall have the same authority as other persons licensed as bail bondsmen or runners under this Article. Except as provided in subsection (d) of this section, a first-year licensee shall operate only under the supervision of and from the official business address of a licensed supervising bail bondsman for the first 12 months of licensure. A first-year licensee may only be employed by or contract with one supervising bail bondsman.

(b) When a first-year licensee has completed 12 months of supervision, six of which shall be uninterrupted, the supervising bail bondsman shall give notice of that fact to the Commissioner in writing. If the licensee will continue to be employed by or contract with the supervising bail bondsman beyond the initial 12-month period, the supervising bail bondsman shall continue to supervise and be responsible for the licensee's acts.

(c) If the employment of or contract with a first-year licensee is terminated, the supervising bail bondsman shall notify the Commissioner in writing and shall specify the reason for the termination.

(d) If, after exercising due diligence, a first-year licensed bail bondsman is unable to become employed by or to contract with a supervising bail bondsman, the first-year licensed bail bondsman must submit to the Department a sworn affidavit stating the relevant facts and circumstances regarding the first-year licensed bail bondman's

inability to become employed by or contract with a supervising bail bondsman. The Department shall review the affidavit and determine whether the first-year licensed bail bondsman will be allowed to operate as an unsupervised bail bondsman. A first-year licensed bail bondsman is prohibited from becoming a supervising bail bondsman during the first two years of licensure.

(e) Provided all other licensing requirements are met, an applicant for a bail bondsman or runner's license who has previously been licensed with the Commissioner for a period of at least 18 consecutive months and who has been inactive or unlicensed for a period of not more than three consecutive years shall not be deemed a new licensee for purposes of this section."

Section 4. G.S. 58-71-80 is amended by adding a new subsection to read:

"(c) In the case of a first-year licensee whose employment or contract is terminated prior to the end of the 12-month supervisory period, the Commissioner may consider all information provided in writing by the supervising bail bondsman in determining whether sufficient cause exists to suspend, revoke, or refuse to renew the license or to warrant criminal prosecution of the first-year licensee. If the Commissioner determines there is not sufficient cause for adverse administrative action or criminal prosecution, the termination shall not be deemed an interruption and the period of time the licensee was employed by or contracted with the terminating supervising bail bondsman will be credited toward the licensee's completion of the required 12 months of supervision with a subsequent supervising bail bondsman."

Section 5. G.S. 58-71-95(5) reads as rewritten:

"(5) Accept anything of value from a principal or from anyone on behalf of a principal except the premium, which shall not exceed fifteen percent (15%) of the face amount of the bond; provided that the bondsman shall be permitted to accept collateral security or other indemnity from a principal or from anyone on behalf of a principal. Such collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond and shall be returned within 72 hours after final termination of liability on the bond. Any bail bondsman who knowingly and willfully fails to return any collateral security, the value of which exceeds one thousand five hundred dollars ($1,500), is guilty of a Class I felony. All collateral security, such as personal and real property, subject to be returned must be done so under the same conditions as requested and received by the bail bondsman."

Section 6. G.S. 58-71-100 reads as rewritten:

"*§ 58-71-100. Receipts for ~~collateral.~~ collateral; trust accounts.*

When a bail bondsman accepts collateral he shall give a written receipt for ~~same,~~ the collateral. ~~and this~~ The receipt shall give in

detail a full description of the collateral received. Collateral security shall be held and maintained in trust. When collateral security is received in the form of cash or check or other negotiable instrument, the licensee shall deposit the cash or instrument within two banking days after receipt, in an established, separate noninterest-bearing trust account in any bank located in North Carolina. The trust account funds shall not be commingled with other operating funds."

Section 7. Article 71 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"*§ 58-71-121. Death, incapacitation, or incompetence of a bail bondsman.*

In the case of death, incapacitation, or incompetence of a licensed bail bondsman, the spouse or surviving spouse, next of kin, person or persons holding a power of attorney, guardian, executor, or administrator of the licensed bail bondsman may contract with another licensed bail bondsman to perform those duties to have the licensee's outstanding bail bond obligations resolved to the satisfaction of the courts. The contract must be filed with the Commissioner and every clerk of superior court where it can be determined the licensee has pending outstanding bail bond obligations. The licensed bail bondsman who has agreed to perform these duties shall not, at the time of the execution of the contract, have any administrative or criminal actions pending against him or her."

Section 8. G.S. 58-71-145 reads as rewritten:

"*§ 58-71-145. Financial responsibility of professional bondsmen.*

Each professional bondsman acting as surety on bail bonds in this State shall maintain a deposit of securities with and satisfactory to the Commissioner of a fair market value of at least one-eighth the amount of all bonds or undertakings written in this State on which he is absolutely or conditionally liable as of the first day of the current month. The amount of this deposit must be reconciled with the bondsman's liabilities as of the first day of the month on or before the fifteenth day of said month and the value of said deposit shall in no event be less than ~~five thousand dollars ($5,000).~~ fifteen thousand dollars ($15,000)."

Section 9. G.S. 58-71-185 reads as rewritten:

"*§ 58-71-185. Penalties for violations.*

~~Any person, firm, association or corporation violating~~ Except as otherwise provided in this Article, any person who violates any of the provisions of this Article is guilty of a Class 1 misdemeanor."

Section 10. This act becomes effective October 1, 2000.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 10:16 a.m. on the 2nd day of August, 2000.

S.B. 1385 **SESSION LAW 2000-181**

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE OR THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND TO MAKE CHANGES IN THE LAW RELATING TO APPOINTMENTS TO PUBLIC OFFICE.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President Pro Tempore of the Senate; and

Whereas, the President Pro Tempore of the Senate has made recommendations; and

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the Speaker of the House of Representatives; and

Whereas, the Speaker of the House of Representatives has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. PRESIDENT PRO TEMPORE'S RECOMMENDATIONS

Section 1.1. Julia Bryan Jones Daniels of Wake County and Linda Godwin Murphy of Duplin County are appointed to the Board of Trustees of the North Carolina Museum of Art for terms expiring on June 30, 2001.

Section 1.2. Tracy Lindsay of Buncombe County is appointed to the North Carolina Arboretum Board of Directors for a term expiring on June 30, 2004.

Section 1.3. Florence Moses of Wake County and Rick Proctor of Guilford County are appointed to the North Carolina Board of Athletic Trainer Examiners for terms expiring on July 31, 2003.

Section 1.4. William D. McInnis of Union County and Dr. Joseph Estwanik of Mecklenburg County are appointed to the North Carolina State Boxing Commission for terms expiring on December 31, 2002.

Section 1.5. Frances P. Walker of Currituck County is appointed to the North Carolina Bridge Authority for a term expiring on June 30, 2003.

Section 1.6. Charles E. Truelove of Wake County is appointed to the State Building Commission for a term expiring on June 30, 2003.

Section 1.7. Diana Jones Wilson of Chowan County is appointed to the Child Care Commission for a term expiring on June 30, 2002.

Section 1.8. William Joseph Brooks, III of Haywood County and Dickson McLean, Jr. of Robeson County are appointed to the Clean Water Management Trust Fund Board of Trustees for terms expiring on December 31, 2004.

Section 1.9. Deborah Simpson of Cumberland County is appointed to the North Carolina Code Officials Qualification Board for a term expiring on June 30, 2004.

Section 1.10. Ann Ake of Wake County is appointed to the North Carolina Board of Dietetics/Nutrition for a term expiring on June 30, 2003.

Section 1.11. Joseph L. Ray of Columbus County is appointed to the Dispute Resolution Commission for a term expiring on September 30, 2002.

Section 1.12. Ashly Maag of Buncombe County is appointed to the North Carolina Educational Facilities Finance Agency Board of Directors for a term expiring on March 1, 2004.

Section 1.13. M. Durwood Stephenson of Johnston County is appointed to the North Carolina Global TransPark Authority for a term expiring on June 30, 2003, to fill the unexpired term of Jeanette Hyde.

Section 1.14. Joe A. Connolly of Buncombe County and Dean Gurley of Wayne County are appointed to the State Health Plan Purchasing Alliance Board for terms expiring on July 1, 2003.

Section 1.15. Gerald Holleman of Wake County, Ed Moran of Craven County, Jeanne C. Tedrow of Wake County, and Jeffrey D. Null of Cumberland County are appointed to the North Carolina Housing Partnership for terms expiring on August 31, 2002.

Section 1.16. Paul Brooks of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term expiring on June 30, 2001.

Section 1.17. Randy Gregory of Cumberland County is appointed to the State Judicial Council for a term expiring on December 31, 2004.

Section 1.18. Candace C. Frye of Pitt County and Maria Narf Spuller of Forsyth County are appointed to the North Carolina Board of Massage and Bodywork Therapy for terms expiring on June 30, 2003.

Section 1.19. Jim Sponenburg, III of Caldwell County is appointed to the Natural Heritage Trust Fund Board of Trustees for a term expiring on December 31, 2005.

Section 1.20. Donna Whitley of Pitt County and Marti D. Koch of Buncombe County are appointed to the North Carolina Center for Nursing Board of Directors for terms expiring on June 30, 2003.

Section 1.21. Leslie Anderson of Buncombe County and Harriet L. Farrior of Duplin County are appointed to the North Carolina Parks and Recreation Authority for terms expiring on June 30, 2002.

Section 1.22. Douglas A. Fox of New Hanover County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2002.

Section 1.23. Sue Anderson of Tyrrell County is appointed to the North Carolina Principal Fellows Commission for a term expiring on June 30, 2003.

Section 1.24. William A. Allen of Pasquotank County is appointed to the Private Protective Services Board for a term expiring on June 30, 2002. Thomas J. Burgin, Jr. of Lincoln County, Keith S. Shannon of Mecklenburg County, and Julius R. Cauble of Henderson County are appointed to the Private Protective Services Board for terms expiring on June 30, 2003.

Section 1.25. Roger Perry of Orange County is appointed to the North Carolina Progress Board for a term expiring on June 30, 2004.

Section 1.26. Bebe Woody, Ray Evans, and Tod Clissold of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2001. Bobby Owens, Jo Ann Williams, and Bill Kealy of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2002.

Section 1.27. Robert Walter Saunders of Wake County is appointed to the Rules Review Commission for a term expiring on June 30, 2002.

Section 1.28. Richard L. Frye of Alamance County is appointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term expiring on June 30, 2003.

Section 1.29. Melanie Ross Chumley of Mecklenburg County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2004.

Section 1.30. Mayor James H. Mobley, Jr. of Beaufort County is appointed to the North Carolina State Board of Therapeutic Recreation Certification for a term expiring on June 30, 2003.

Section 1.31. Gregory E. Bright of Wake County is appointed to the Well Contractors Certification Commission for a term expiring on June 30, 2003.

Section 1.32. Neil Franklin Allen of Randolph County is appointed to the Wireless 911 Board for a term expiring on June 30, 2002, to fill the unexpired term of Richard Taylor. Toby Turner of Wake County is appointed to the Wireless 911 Board for a term expiring on June 30, 2002, to fill the unexpired term of Doug Matheson.

Section 1.33. Beth Rector is appointed to the Child Care Commission for a term expiring on June 30, 2002.

PART IA. SPEAKER'S RECOMMENDATIONS

Section 1A.1. R. Bradley Smith, Jr. of Mecklenburg County is appointed to the Alarm Systems Licensing Board for a term to expire on June 30, 2003.

Section 1A.2. Kaye A. Myers of Buncombe County is appointed to the North Carolina Arboretum Board of Directors for a term expiring on June 30, 2004.

Section 1A.3. Dr. Thomas J. Newton of Sampson County is appointed to the North Carolina Board of Athletic Trainer Examiners for a term expiring on June 30, 2002.

Section 1A.4. Dr. Galen Grayson of Mecklenburg County is appointed to the North Carolina State Boxing Commission for a term expiring on December 31, 2002.

Section 1A.5. John Feezor of Union County is appointed to the State Building Commission for a term expiring on June 30, 2003.

Section 1A.6. Debi Mull Harrill of Cleveland County and Laura Pennington of Jackson County are appointed to the Child Care Commission for terms expiring on June 30, 2002.

Section 1A.7. Sam Vaughan, III of Durham County is appointed to the North Carolina Code Officials Qualification Board for a term expiring on June 30, 2004.

Section 1A.8. Ree Lomax of Wake County is appointed to the State Board of Cosmetic Art Examiners for a term expiring on June 30, 2003.

Section 1A.9. Richard Davis of Forsyth County is appointed to the Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on June 30, 2003.

Section 1A.10. Lillie Brown of Guilford County, Brian Coyle of Wake County, Scott Dedmond of Buncombe County, Constance Stancil of Durham County, and E. G. Fowler of Watauga County are appointed to the North Carolina Housing Partnership for terms expiring June 30, 2003.

Section 1A.11. Linda Livingston of Guilford County and Danny Chandler of Wake County are appointed to the North Carolina Manufactured Housing Board for terms expiring on June 30, 2003.

Section 1A.12. Rick Rosen of Chatham County is appointed to the North Carolina Board of Massage and Bodywork Therapy for a term expiring on June 30, 2003.

Section 1A.13. Alan Briggs of Wake County is appointed to the Natural Heritage Trust Fund Board of Trustees for a term expiring on December 31, 2005.

Section 1A.14. Sherry Thomas of Wake County is appointed to the North Carolina Center for Nursing Board of Directors for a term expiring on June 30, 2003.

Section 1A.15. Roy Alexander of Mecklenburg County and Mary Rhoe of Wayne County are appointed to the North Carolina Parks and Recreation Authority for terms expiring on June 30, 2002.

Section 1A.16. Calvin Wellons of Carteret County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2002.

Section 1A.17. Tim McIntyre of Davie County, Carlton Miles of Mecklenburg County, and Grady W. Conner of Catawba County are appointed to the Private Protective Services Board for terms expiring on June 30, 2003.

Section 1A.18. Joe Bryan of Guilford County, William Massey of Mecklenburg County, and Louisa Dollard of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2002.

Section 1A.19. Paul Powell of Wake County is appointed to the Rules Review Commission for a term expiring on June 30, 2002.

Section 1A.20. Dr. Geraldine Miller of Watauga County is appointed to the North Carolina Substance Abuse Professional Certification Board for a term expiring on June 30, 2003.

Section 1A.21. William W. Hill, Jr., of Nash County is appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for a term expiring on June 30, 2002.

Section 1A.22. Katherine Hazelton of Guilford County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2004.

Section 1A.23. Peggy Pruett of Forsyth County is appointed to the North Carolina State Board of Therapeutic Recreation Certification for a term expiring on June 30, 2003.

Section 1A.24. Jeff Dillard of Halifax County is appointed to the Well Contractors Certification Commission for a term expiring on June 30, 2003.

PART II. STATUTORY AND SESSION LAW CHANGES

--STUDY COMMISSION ON THE FUTURE OF ELECTRIC SERVICE IN NORTH CAROLINA

Section 2.1. Section 1 of S.L. 1997-40, as amended by S.L. 1999-122, reads as rewritten:

"Section 1. The Study Commission on the Future of Electric Service in North Carolina is created. The Commission shall consist of ~~29~~ 30 voting members as follows:

(1) Nine members of the Senate to be appointed by the President Pro Tempore of the Senate;

(2) Nine members of the House of Representatives to be appointed by the Speaker of the House of Representatives;

(3) The Chief Executive Officer of the North Carolina Electric Membership Corporation or the Chief Executive Officer's designee;

(4) The Chief Executive Officer of ElectriCities of North Carolina or the Chief Executive Officer's designee;

(5) The Chief Executive Officer of Duke Power Company or the Chief Executive Officer's designee;

(6) The Chief Executive Officer of Carolina Power and Light Company or the Chief Executive Officer's designee;

(6a) The Chief Executive Officer of North Carolina Power Company or the Chief Executive Officer's designee;

(7) Two residential consumers of electricity, one to be appointed by the President Pro Tempore of the Senate and one to be appointed by the Speaker of the House of Representatives;

(8) One commercial consumer of electricity to be appointed by the President Pro Tempore of the Senate;

(9) Two industrial consumers of electricity, one to be appointed by the Speaker of the House of Representatives and one to be appointed by the President Pro Tempore of the Senate;
(10) One member of the environmental community to be appointed by the Governor; and
(11) One person representing a nationwide electric power marketer to be appointed by the Speaker of the House of Representatives.

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair from the General Assembly membership serving on the Commission. The Commission shall meet upon the call of the cochairs. A majority of the Commission shall constitute a quorum for the transaction of business."

--NORTH CAROLINA TAX POLICY COMMISSION

Section 2.2. Section 3.2 of S.L. 1999-395 reads as rewritten:

"Section 3.2. Membership. -- The Commission shall consist of ~~15~~ 17 members who shall represent, insofar as practicable, the diverse interests and geographic regions of the State and shall include individuals with expertise in tax policy, tax administration, and professional tax practice.

The Speaker of the House of Representatives shall appoint ~~five~~ six members, as follows: ~~two~~ three members of the General Assembly, one individual nominated by the North Carolina League of Municipalities, one individual who represents business taxpayers, and one public member.

The President Pro Tempore of the Senate shall appoint ~~five~~ six members, as follows: ~~two~~ three members of the General Assembly, one individual nominated by the North Carolina Association of County Commissioners, one individual who represents nonbusiness taxpayers, and one public member.

The Governor shall appoint five members, as follows: one individual who represents tax practitioners, one individual who represents nonprofit, charitable organizations, one individual who has demonstrated leadership and expertise in tax policy, one individual who represents senior citizens and one individual who represents small business taxpayers.

Appointments to the Commission shall be made no later than August 31, ~~1999.~~ 2000. Vacancies shall be filled by the original appointing authority."

--PRIVATE PROTECTIVE SERVICES BOARD

Section 2.3. G.S. 74C-4(b) reads as rewritten:

"(b) The Board shall consist of ~~10~~ 14 members: the Attorney General or his designated representative, two persons appointed by the Attorney General, one person appointed by the Governor, ~~three~~ five persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and ~~three~~ five persons

appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. All appointments by the General Assembly shall be subject to the provisions of G.S. 120-121, and vacancies in the positions filled by those appointments shall be filled pursuant to G.S. 120-122. One of those persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and all ~~three~~ five persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be licensees under this Chapter; all other appointees may not be licensees of the Board nor licensed by the Board while serving as Board members. All persons appointed shall serve terms of three years. With the exception of the Attorney General or his designated representative, no person shall serve more than eight consecutive years on the Board, including years of service prior and subsequent to July 1, 1983. Board members may continue to serve until their successors have been appointed."

--ROANOKE ISLAND COMMISSION

Section 2.4. G.S. 143B-131.6(i) reads as rewritten:

"(i) The Commission shall make its recommendations by ~~September~~ March 15 of each year that terms expire for appointments for terms commencing ~~November~~ July 1 of that year; provided the initial appointments for terms commencing October 1, 1994, shall be made upon recommendation of the Roanoke Island Historical Association."

--CENTENNIAL AUTHORITY

Section 2.5. G.S. 160A-480.3(b) reads as rewritten:

"(b) Membership. -- An authority shall have eight or ~~17~~ 19 members. Members shall be chosen for terms as follows:

(1) Four shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, at least one of whom shall be a resident of the territorial jurisdiction of the authority, and at least one other of whom shall have been recommended by the board of trustees of the constituent institution of The University of North Carolina whose main campus is located within the county;

(2) Four shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, at least one of whom shall be a resident of the territorial jurisdiction of the authority, and at least one other of whom shall have been recommended by the Board of Trustees of the constituent institution of The University of North Carolina whose main campus is located within the county; and

(3) If the territorial jurisdiction of the authority is a county where the main campus of a constituent institution of The University of North Carolina is located, then:

a. Four members shall be appointed by the board of commissioners of that county, one of whom at the time of appointment is a resident of the municipality with the second largest population in the county, according to the most recent decennial federal census;
b. Four members shall be appointed by the city council of the city with the largest population in the county, according to the most recent decennial federal census;
c. ~~One member~~ Two members shall be appointed jointly by the mayors of all the cities in that county.
d. The Chancellor of the main campus of a constituent institution of The University of North Carolina within the county, or the Chancellor's designee.

Beginning January 1, 1999, a majority of any executive committee, or other committee however termed having supervisory or management authority over the facility to be constructed by the authority, shall consist of authority members appointed under this ~~subdivision.~~ subsection.

Neither the board of commissioners nor the city council may appoint a member of its board to serve on the authority.

Two of the initial appointments under subdivision (1) of this subsection, two of the initial appointments under subdivision (2) of this subsection, one of the initial appointments under subdivision (3)a. of this subsection, and one of the initial appointments under subdivision (3)b. of this section shall be for terms expiring July 1 of the second year after the year in which the authority is created. The remaining initial appointments shall be for terms expiring July 1 of the fourth year after the year in which the authority is created. The third member appointed by the board of commissioners shall serve a term beginning January 1, 1999, and expiring July 1, 2001, and the fourth member appointed by the board of commissioners shall serve a term beginning January 1, 1999, and expiring July 1, 2003. The third member appointed by the city council shall serve a term beginning January 1, 1999, and expiring July 1, 2001, and the fourth member appointed by the city council shall serve a term beginning January 1, 1999, and expiring July 1, 2003. Of the two appointments made by the General Assembly in 1999 and quadrennially thereafter upon the recommendation of the Speaker of the House of Representatives, one shall be the person recommended by the board of trustees of the constituent institution of The University of North Carolina whose main campus is located within the county. Of the two appointments made by the General Assembly in 1999 and quadrennially thereafter upon the recommendation of the President Pro Tempore of the Senate, one shall be the person recommended by the board of trustees of the constituent institution of The University of North Carolina whose main campus is located within the county. The second member appointed under sub-subdivision (3)c. of this section shall serve an initial term expiring July 1, 2003. Successors shall be appointed in the same manner for four-year terms. A member may be removed by the

appointing authority for cause. Vacancies occurring in the membership of the authority shall be filled by the remaining members."

--NORTH CAROLINA REAL ESTATE COMMISSION

Section 2.6.(a) Section 6 of S.L. 1999-405 reads as rewritten:

"Section 6. Upon the recommendation of the Speaker of the House of Representatives, William Lackey of Mecklenburg County is appointed to the North Carolina Real Estate Commission for a term expiring ~~June 30, 2002.~~ July 31, 2002."

Section 2.6.(b) Subsection 3.4(b) of S.L. 1999-431 reads as rewritten:

"Section 3.4.(b) Appointments of the initial members authorized by this section are for terms expiring ~~June 30, 2002.~~ July 31, 2002."

Section 2.6.(c) The term of Raymond A. Bass, Jr. to the North Carolina Real Estate Commission is hereby extended to July 31, 2004.

--STATE BOARD OF CHIROPRACTIC EXAMINERS

Section 2.7.(a). G.S. 90-139 reads as rewritten:

"*§ 90-139. Creation and membership of Board of Examiners.*

(a) The State Board of Chiropractic Examiners is created to consist of eight members appointed by the ~~Governor,~~ Governor and General Assembly. ~~Seven~~ Six of the members shall be practicing doctors of chiropractic, who are residents of this State and who have actively practiced chiropractic in the State for at least eight consecutive years immediately preceding their appointments; ~~five~~ four of these ~~seven~~ six members shall be appointed by the Governor, and two by the General Assembly in accordance with G.S. 120-121, one each upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. No more than three members of the Board may be graduates of the same college or school of chiropractic. The other ~~member~~ two members shall be ~~a person~~ persons chosen by the Governor to represent the public at large. The public ~~member~~ members shall not be ~~a~~ health care ~~provider~~ providers nor the ~~spouse~~ spouses of ~~a~~ health care ~~provider.~~ providers. For purposes of Board membership, "health care provider" means any licensed health care professional and any agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program to prepare him to be a licensed health care professional or an allied health professional shall be deemed a health care provider. For purposes of this section, any person with significant financial interest in a health service or profession is not a public member."

Section 2.7.(b). This section is effective when it becomes law and shall apply to the next appointment by the Governor to replace a member who is a practicing doctor of chiropractic.

PART III. EFFECTIVE DATE

Section 3.1. Unless otherwise specified, all appointments made by this act are for terms to begin July 1, 2000.

Section 3.2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 10:17 a.m. on the 2nd day of August, 2000.

H.B. 1566 **SESSION LAW 2000-182**

AN ACT TO PROVIDE FOR A PROCEDURE FOR CREATION OF A TEMPORARY LIEN ON A MOTOR VEHICLE WHEN A MANUFACTURER'S STATEMENT OF ORIGIN OR AN EXISTING CERTIFICATE OF TITLE ON A MOTOR VEHICLE IS UNAVAILABLE AND TO MAKE OTHER CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-52.1 reads as rewritten:

"*§ 20-52.1. Manufacturer's certificate of transfer of new motor vehicle.*

(a) Any manufacturer transferring a new motor vehicle to another shall, at the time of the transfer, supply the transferee with a manufacturer's certificate of origin assigned to the transferee.

(b) Any dealer transferring a new vehicle to another dealer shall, at the time of transfer, give such transferee the proper manufacturer's certificate assigned to the transferee.

(c) Upon sale of a new vehicle by a dealer to a consumer-purchaser, the dealer shall execute in the presence of a person authorized to administer oaths an assignment of the manufacturer's certificate of origin for the vehicle, including in such assignment the name and address of the transferee and no title to a new motor vehicle acquired by a dealer under the provisions of subsections (a) and (b) of this section shall pass or vest until such assignment is executed and the motor vehicle delivered to the transferee.

Any dealer transferring title to, or an interest in, a new vehicle shall deliver the manufacturer's certificate of origin duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except that where a security interest is obtained in the motor vehicle from the transferee in payment of the purchase price or otherwise, the transferor shall deliver the manufacturer's certificate of origin to the lienholder and the lienholder shall forthwith forward the manufacturer's certificate of origin together with the transferee's application for certificate of title and necessary fees to the Division. Any person who delivers or accepts a manufacturer's certificate of origin assigned in blank shall be guilty of a Class 2

~~misdemeanor.~~ misdemeanor, unless done in accordance with subsection (d) of this section.

(d) When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this Chapter may also transfer title to another by certifying in writing in a sworn statement to the Division that all prior perfected liens on the vehicle have been paid and that the motor vehicle dealer, despite having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title. The Division is authorized to develop a form for this purpose. The filing of a false sworn certification with the Division pursuant to this subsection shall constitute a Class H felony. The dealer shall hold harmless the consumer-purchaser from any damages arising from the use of the procedure authorized by this subsection."

Section 2. G.S. 20-58 reads as rewritten:

"*§ 20-58. Perfection by indication of security interest on certificate of title.*

(a) Except as provided in G.S. 20-58.8, a security interest in a vehicle of a type for which a certificate of title is required shall be perfected only as hereinafter provided.

(1) If the vehicle is not registered in this State, the application for notation of a security interest shall be the application for certificate of title provided for in G.S. 20-52.

(2) If the vehicle is registered in this State, the application for notation of a security interest shall be in the form prescribed by the Division, signed by the debtor, and contain the date of application of each security interest, and name and address of the secured party from whom information concerning the security interest may be obtained. The application must be accompanied by the existing certificate of title unless in the possession of a prior secured party. If there is an existing certificate of title issued by this or any other jurisdiction in the possession of a prior secured party, the application for notation of the security interest shall in addition contain the name and address of such prior secured party. An application for notation of a security interest may be signed by the secured party instead of the debtor when the application is accompanied by documentary evidence of the applicant's security interest in that motor vehicle signed by the debtor and by affidavit of the applicant stating the reason the debtor did not sign the application. In the event the certificate cannot be obtained for recordation of the security interest, when title remains in the name of the debtor, the Division shall cancel the certificate and issue a new certificate of title listing all the respective security interests.

(3) If the application for notation of security interest is made in order to continue the perfection of a security interest perfected in another jurisdiction, it may be signed by the

secured party instead of the debtor. Such application shall be accompanied by documentary evidence of a perfected security interest. No such application shall be valid unless an application for a certificate of title has been made in North Carolina. The security interest perfected herein shall be subject to the provisions set forth in G.S. 20-58.5.

(b) When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a first lienholder who holds a valid license as a motor vehicle dealer issued by the Commissioner under Article 12 of this Chapter or his designee may file a notarized copy of an instrument creating and evidencing a security interest in the motor vehicle with the Division of Motor Vehicles. A filing pursuant to this subsection shall constitute constructive notice to all persons of the security interest in the motor vehicle described in the filing. The constructive notice shall be effective from the date of the filing if the filing is made within 20 days after the date of the security agreement. The constructive notice shall date from the date of the filing with the Division if it is made more than 20 days after the date of the security agreement. The notation of a security interest created under this subsection shall automatically expire 60 days after the date of the creation of the security interest, or upon perfection of the security interest as provided in subsection (a) of this section, whichever occurs first. A security interest notation made under this subsection and then later perfected under subsection (a) of this section shall be presumed to have been perfected on the date of the earlier filing. The Division may charge a fee not to exceed ten dollars ($10.00) for each notation of security interest filed pursuant to this subsection. The fee shall be credited to the Highway Fund. A false filing with the Division pursuant to this subsection shall constitute a Class H felony."

Section 3. G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. -- All registration plates, registration certificates and certificates of title issued by the Division, outside of those issued from the Raleigh offices of the said Division and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of such plates and certificates in localities throughout North Carolina with persons, firms, corporations or governmental subdivisions of the State of North Carolina and the Division shall make a reasonable effort in every locality, except as hereinbefore noted, to enter into a commission contract for the issuance of such plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts as hereinbefore set out it shall then issue said plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of such distribution. Commission

contracts entered under this subsection shall provide for the payment of compensation for all transactions as set forth below. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

A transaction is any of the following activities:

(1) Issuance of a registration plate, a registration card, a registration renewal sticker, or a certificate of title.

(2) Issuance of a handicapped placard or handicapped identification card.

(3) Acceptance of an application for a personalized registration plate.

(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.

(5) Cancellation of a title because the vehicle has been junked.

(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.

(7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.

(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.

(8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.

(8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.

(9) Collection of the highway use tax.

(10) Acceptance of a temporary lien filing.

Performance at the same time of any combination of the items that are listed within each subdivision or are listed within subdivisions (1) through (8b) of this section is a single transaction for which a dollar and thirty-five cent ($1.35) compensation shall be paid. Performance of the item listed in subdivision (9) of this subsection in combination with any other items listed in this subsection is a separate transaction for which a one dollar and twenty cent ($1.20) compensation shall be paid."

Section 4. G.S. 20-72(b) reads as rewritten:

"(b) In order to assign or transfer title or interest in any motor vehicle registered under the provisions of this Article, the owner shall execute in the presence of a person authorized to administer oaths an assignment and warranty of title on the reverse of the certificate of title in form approved by the Division, including in such assignment the name and address of the transferee; and no title to any motor vehicle shall pass or vest until such assignment is executed and the motor vehicle delivered to the transferee. The provisions of this section shall not apply to any foreclosure or repossession under a chattel mortgage or conditional sales contract or any judicial sale.

When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this Chapter may also transfer title to another by certifying in writing in a sworn statement to the Division that all prior perfected liens on the vehicle have been paid and that the motor vehicle dealer, despite having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title. The Division is authorized to develop a form for this purpose. The filing of a false sworn certification with the Division pursuant to this paragraph shall constitute a Class H felony.

Any person transferring title or interest in a motor vehicle shall deliver the certificate of title duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except that where a security interest is obtained in the motor vehicle from the transferee in payment of the purchase price or otherwise, the transferor shall deliver the certificate of title to the lienholder and the lienholder shall forward the certificate of title together with the transferee's application for new title and necessary fees to the Division within 20 days. Any person who delivers or accepts a certificate of title assigned in blank shall be guilty of a Class 2 misdemeanor.

The title to a salvage vehicle shall be forwarded to the Division as provided in G.S. 20-109.1."

Section 5. G.S. 20-79.1(h) reads as rewritten:

"(h) Temporary registration plates or markers shall expire and become void upon the receipt of the annual registration plates from the Division, or upon the rescission of a contract to purchase a motor vehicle, or upon the expiration of 30 days from the date of issuance, depending upon whichever event shall first occur. No refund or credit or fees paid by dealers to the Division for temporary registration plates or markers shall be allowed, except in the event that the Division discontinues the issuance of temporary registration plates or markers or unless the dealer discontinues business. In this event the unissued registration plates or markers with the unissued registration certificates shall be returned to the Division and the dealer may petition for a refund. Upon the expiration of the 30 days from the date of issuance, a second 30-day temporary registration plate or marker may be issued by the dealer upon showing the vehicle has been sold, a temporary lien has been filed as provided in G.S. 20-58, and that the dealer, having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title so that the lien may be perfected."

Section 6. This act becomes effective May 1, 2001, and applies to offenses occurring on or after that date.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 10:17 a.m. on the 2nd day of August, 2000.

H.B. 1609 **SESSION LAW 2000-183**

AN ACT TO AUTHORIZE AND CLARIFY THE PROCEDURES FOR FILING A MOTION TO TERMINATE PARENTAL RIGHTS IN A PENDING JUVENILE ABUSE, NEGLECT, OR DEPENDENCY PROCEEDING, AND TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY WHETHER INFORMATION SHOULD BE EXPUNGED FROM CERTAIN RECORDS WHEN AN ABUSE, NEGLECT, OR DEPENDENCY REPORT IS NOT SUBSTANTIATED OR PROVEN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7B-406(b) reads as rewritten:

"(b) A summons shall be on a printed form supplied by the Administrative Office of the Courts and shall include:

(1) Notice of the nature of the proceeding;

(2) Notice of any right to counsel and information about how to seek the appointment of counsel prior to a hearing;

(3) Notice that, if the court determines at the hearing that the allegations of the petition are true, the court will conduct a dispositional hearing to consider the needs of the juvenile and enter an order designed to meet those needs and the objectives of the State; and

(4) Notice that the dispositional order or a subsequent order:

a. May remove the juvenile from the custody of the parent, guardian, or custodian.

b. May require that the juvenile receive medical, psychiatric, psychological, or other treatment and that the parent participate in the treatment.

c. May require the parent to undergo psychiatric, psychological, or other treatment or counseling for the purpose of remedying the behaviors or conditions that are alleged in the petition or that contributed to the removal of the juvenile from the custody of that person.

d. May order the parent to pay for treatment that is ordered for the juvenile or the parent.

e. May, upon proper notice and hearing and a finding based on the criteria set out in G.S. 7B-1111, terminate the parental rights of the respondent parent."

Section 2. G.S. 7B-1101 reads as rewritten:

"§ *7B-1101. Jurisdiction.*

The court shall have exclusive original jurisdiction to hear and determine any petition or motion relating to termination of parental rights to any juvenile who resides in, is found in, or is in the legal or actual custody of a county department of social services or licensed child-placing agency in the district at the time of filing of the ~~petition.~~ petition or motion. The court shall have jurisdiction to terminate the parental rights of any parent irrespective of the age of the parent. The

parent has the right to counsel and to appointed counsel in cases of indigency unless the parent waives the right. The fees of appointed counsel shall be borne by the Administrative Office of the Courts. In addition to the right to appointed counsel set forth above, a guardian ad litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to represent a parent in the following cases:

(1) Where it is alleged that a parent's rights should be terminated pursuant to G.S. 7B-1111(6); or

(2) Where the parent is under the age of 18 years.

The fees of the guardian ad litem shall be borne by the Administrative Office of the Courts when the court finds that the respondent is indigent. In other cases the fees of the court-appointed guardian ad litem shall be a proper charge against the respondent if the respondent does not secure private legal counsel. Provided, that before exercising jurisdiction under this Article, the court shall find that it would have jurisdiction to make a child-custody determination under the provisions of G.S. 50A-201, 50A-203, or 50A-204. Provided, further, that the clerk of superior court shall have jurisdiction for adoptions under the provisions of G.S. 48-2-100 and Chapter 48 of the General Statutes generally."

Section 3. G.S. 7B-1102 reads as rewritten:

"*§ 7B-1102. Pending child abuse, neglect, or dependency ~~hearings.~~ proceedings.*

~~When a juvenile is currently within the jurisdiction of the district court based upon an abuse, neglect, or dependency proceeding, a petition for termination of parental rights to that juvenile may be filed as a motion in the cause in the abuse, neglect, or dependency proceeding. Any parent of that juvenile who was previously served in the abuse, neglect, or dependency proceeding in accordance with G.S. 7B-407 shall be served with the petition to terminate parental rights in accordances with G.S. 1A-1, Rule 5.~~

(a) When the district court is exercising jurisdiction over a juvenile and the juvenile's parent in an abuse, neglect, or dependency proceeding, a person or agency specified in G.S. 7B-1103(a) may file in that proceeding a motion for termination of the parent's rights in relation to the juvenile.

(b) A motion pursuant to subsection (a) of this section and the notice required by G.S. 7B-1106.1 shall be served in accordance with G.S. 1A-1, Rule 5(b), except:

(1) Service must be in accordance with G.S. 1A-1, Rule 4, if one of the following applies:

a. The person or agency to be served was not served originally with summons.

b. The person or agency to be served was served originally by publication that did not include notice substantially in conformity with the notice required by G.S. 7B-406(b)(4)e.

c. Two years has elapsed since the date of the original action.

(2) In any case, the court may order that service of the motion and notice be made pursuant to G.S. 1A-1, Rule 4.

For purposes of this section, the parent of the juvenile shall not be deemed to be under disability even though the parent is a minor.

(c) When a petition for termination of parental rights is filed in the same district in which there is pending an abuse, neglect, or dependency proceeding involving the same juvenile, the court on its own motion or motion of a party may consolidate the action pursuant to G.S. 1A-1, Rule 42."

Section 4. G.S. 7B-1103 reads as rewritten:

"§ *7B-1103. Who may ~~petition.~~ file a petition or motion.*

(a) A petition or motion to terminate the parental rights of either or both parents to his, her, or their minor juvenile may only be filed ~~by:~~ by one or more of the following:

(1) Either parent seeking termination of the right of the other ~~parent; or~~ parent.

(2) Any person who has been judicially appointed as the guardian of the person of the ~~juvenile; or~~ juvenile.

(3) Any county department of social services, consolidated county human services agency, or licensed child-placing agency to whom custody of the juvenile has been given by a court of competent ~~jurisdiction; or~~ jurisdiction.

(4) Any county department of social services, consolidated county human services agency, or licensed child-placing agency to which the juvenile has been surrendered for adoption by one of the parents or by the guardian of the person of the juvenile, pursuant to G.S. ~~48-3-701; or~~ 48-3-701.

(5) Any person with whom the juvenile has resided for a continuous period of two years or more next preceding the filing of the ~~petition; or~~ petition or motion.

(6) Any guardian ad litem appointed to represent the minor juvenile pursuant to G.S. 7B-601 who has not been relieved of this ~~responsibility and who has served in this capacity for at least one continuous year; or~~ responsibility.

(7) Any person who has filed a petition for adoption pursuant to Chapter 48 of the General Statutes.

(b) Any person or agency that may file a petition under subsection (a) of this section may intervene in a pending abuse, neglect, or dependency proceeding for the purpose of filing a motion to terminate parental rights."

Section 5. G.S. 7B-1104 reads as rewritten:

"§ *7B-1104. ~~Petition.~~ Petition or motion.*

The ~~petition~~ petition, or motion pursuant to G.S. 7B-1102, shall be verified by the petitioner or movant and shall be entitled 'In Re (last name of ~~juvenile)",~~ juvenile), a minor ~~juvenile;~~ juvenile'; and shall set forth such of the following facts as are known; and with respect to the facts which are unknown the petitioner or movant shall so state:

(1) The name of the juvenile as it appears on the juvenile's birth certificate, the date and place of birth, and the county where the juvenile is presently residing.
(2) The name and address of the petitioner or movant and facts sufficient to identify the petitioner or movant as one ~~entitled to petition under G.S. 7B-1103.~~ authorized by G.S. 7B-1103 to file a petition or motion.
(3) The name and address of the parents of the juvenile. If the name or address of one or both parents is unknown to the ~~petitioner,~~ petitioner or movant, the petitioner or movant shall set forth with particularity the petitioner's or movant's efforts to ascertain the identity or whereabouts of the parent or parents. The information may be contained in an affidavit attached to the petition or motion and incorporated therein by reference.
(4) The name and address of any person who has been judicially appointed as guardian of the person of the ~~juvenile pursuant to the provisions of Chapter 35A of the General Statutes, or of G.S. 7B-600.~~ juvenile.
(5) The name and address of any person or agency to whom custody of the juvenile has been given by a court of this or any other state; and a copy of the custody order shall be attached to the ~~petition.~~ petition or motion.
(6) Facts that are sufficient to warrant a determination that one or more of the grounds for terminating parental rights exist.
(7) That the petition or motion has not been filed to circumvent the provisions of Article 2 of Chapter 50A of the General Statutes, the Uniform Child-Custody Jurisdiction and Enforcement Act."

Section 6. Article 11 of Chapter 7B of the General Statutes is amended by adding a new section to read:

"*§ 7B-1106.1. Notice in pending child abuse, neglect, or dependency cases.*

(a) Upon the filing of a motion pursuant to G.S. 7B-1102, the movant shall prepare a notice directed to each of the following persons or agency, not otherwise a movant:

(1) The parents of the juvenile.
(2) Any person who has been judicially appointed as guardian of the person of the juvenile.
(3) The custodian of the juvenile appointed by a court of competent jurisdiction.
(4) Any county department of social services or licensed child-placing agency to whom a juvenile has been released by one parent pursuant to Part 7 of Article 3 of Chapter 48 of the General Statutes or any county department of social services to whom placement responsibility for the juvenile has been given by a court of competent jurisdiction.

(5) The juvenile's guardian ad litem if one has been appointed pursuant to G.S. 7B-601 and has not been relieved of responsibility.

(6) The juvenile, if the juvenile is 12 years of age or older at the time the motion is filed.

Provided, no notice need be directed to or served upon any parent who, under Chapter 48 of the General Statutes, has irrevocably relinquished the juvenile to a county department of social services or licensed child-placing agency nor to any parent who has consented to the adoption of the juvenile by the movant. The notice shall notify the person or agency to whom it is directed to file a written response within 30 days after service of the motion and notice. Service of the motion and notice shall be completed as provided under G.S. 7B-1102(b).

(b) The notice required by subsection (a) of this section shall include all of the following:

(1) The name of the minor juvenile.

(2) Notice that a written response to the motion must be filed with the clerk within 30 days after service of the motion and notice, or the parent's rights may be terminated.

(3) Notice that any attorney appointed previously to represent the parent in the abuse, neglect, or dependency proceeding will continue to represent the parents unless otherwise ordered by the court.

(4) Notice that if the parent is indigent, the parent is entitled to appointed counsel and if the parent is not already represented by appointed counsel the parent may contact the clerk immediately to request counsel.

(5) Notice that the date, time, and place of hearing will be mailed by the moving party upon filing of the response or 30 days from the date of service if no response is filed.

(6) Notice of the purpose of the hearing and notice that the parents may attend the termination hearing.

(c) If a county department of social services, not otherwise a movant, is served with a motion seeking termination of a parent's rights, the director shall file a written response and shall be deemed a party to the proceeding."

Section 7. G.S. 7B-1107 reads as rewritten:

"*§ 7B-1107. Failure of ~~respondents to answer.~~ parent to answer or respond.*

Upon the failure of ~~the respondents~~ a respondent parent to file written answer to the petition or written response to the motion ~~with the court~~ within 30 days after service of the summons and ~~petition,~~ petition or notice and motion, or within the time period established for a defendant's reply by G.S. 1A-1, Rule 4(j1) if service is by publication, the court ~~shall~~ may issue an order terminating all parental and custodial rights of ~~the respondent or respondents~~ that parent with respect to the juvenile; provided the court shall order a hearing on the petition or motion and may examine the petitioner or

movant or others on the facts alleged in the ~~petition.~~ petition or motion."

Section 8. G.S. 7B-1108 reads as rewritten:

"*§ 7B-1108. ~~Answer of respondents.~~ Answer or response of parent.*

(a) Any respondent may file a written answer to the ~~petition.~~ petition or written response to the motion. The answer or response shall admit or deny the allegations of the petition or motion and shall set forth the name and address of the answering respondent or the respondent's attorney.

(b) If an answer or response denies any material allegation of the ~~petition,~~ petition or motion, the court shall appoint a guardian ad litem for the juvenile to represent the best interests of the juvenile, unless the petition or motion was filed by the guardian ad litem pursuant to G.S. ~~7B-1103.~~ 7B-1103, or a guardian ad litem has already been appointed pursuant to G.S. 7B-601. A licensed attorney shall be appointed to assist those guardians ad litem who are not attorneys licensed to practice in North Carolina. The appointment, duties, and payment of the guardian ad litem shall be the same as in G.S. 7B-601 and G.S. 7B-603. The court shall conduct a special hearing after notice of not less than 10 days nor more than 30 days ~~to the petitioner, the answering respondent,~~ given by the petitioner or movant to the respondent who answered or responded, and the guardian ad litem for the juvenile to determine the issues raised by the petition and ~~answer.~~ answer or motion and response.

Notice of the hearing shall be deemed to have been given upon the depositing thereof in the United States mail, first-class postage prepaid, and addressed to the ~~petitioner,~~ respondent, and guardian ad litem or their counsel of record, at the addresses appearing in the petition or motion and responsive pleading.

(c) In proceedings under this Article, the appointment of a guardian ad litem shall not be required except, as provided above, in cases in which an answer or response is filed denying material allegations, or as required under G.S. 7B-1101; but the court may, in its discretion, appoint a guardian ad litem for a juvenile, either before or after determining the existence of grounds for termination of parental rights, in order to assist the court in determining the best interests of the juvenile.

(d) If a guardian ad litem has previously been appointed for the juvenile under G.S. 7B-601, and the appointment of a guardian ad litem could also be made under this section, the guardian ad litem appointed under G.S. 7B-601, and any attorney appointed to assist that guardian, shall also represent the juvenile in all proceedings under this Article and shall have the duties and payment of a guardian ad litem appointed under this section, unless the court determines that the best interests of the juvenile require otherwise."

Section 9. G.S. 7B-1109 (b) and (f) read as rewritten:

"(b) The court shall inquire whether the juvenile's parents are present at the hearing and, if so, whether they are represented by counsel. If the parents are not represented by counsel, the court shall

inquire whether the parents desire counsel but are indigent. In the event that the parents desire counsel but are indigent as defined in G.S. 7A-450(a) and are unable to obtain counsel to represent them, the court shall appoint counsel to represent them. The court shall grant the parents such an extension of time as is reasonable to permit their appointed counsel to prepare their defense to the termination ~~petition.~~ petition or motion. In the event that the parents do not desire counsel and are present at the hearing, the court shall examine each parent and make findings of fact sufficient to show that the waivers were knowing and voluntary. This examination shall be reported as provided in G.S. 7A-198.

. . .

(f) The burden in such proceedings shall be upon the petitioner or movant and all findings of fact shall be based on clear, cogent, and convincing evidence. No husband-wife or physician-patient privilege shall be grounds for excluding any evidence regarding the existence or nonexistence of any circumstance authorizing the termination of parental rights."

Section 10. G.S. 7B-1110 reads as rewritten:

"*§ 7B-1110. Disposition.*

(a) Should the court determine that any one or more of the conditions authorizing a termination of the parental rights of a parent exist, the court shall issue an order terminating the parental rights of such parent with respect to the juvenile unless the court shall further determine that the best interests of the juvenile require that the parental rights of the parent not be terminated.

(b) Should the court conclude that, irrespective of the existence of one or more circumstances authorizing termination of parental rights, the best interests of the juvenile require that rights should not be terminated, the court shall dismiss the ~~petition,~~ petition or deny the motion, but only after setting forth the facts and conclusions upon which the dismissal or denial is based.

(c) Should the court determine that circumstances authorizing termination of parental rights do not exist, the court shall dismiss the ~~petition,~~ petition or deny the motion, making appropriate findings of fact and conclusions.

(d) Counsel for the petitioner or movant shall serve a copy of the termination of parental rights order upon the guardian ad litem for the juvenile, if any, and upon the juvenile if the juvenile is 12 years of age or older.

(e) The court may tax the cost of the proceeding to any party."

Section 11. G.S. 7B-1111 reads as rewritten:

"*§ 7B-1111. Grounds for terminating parental rights.*

(a) The court may terminate the parental rights upon a finding of one or more of the following:

(1) The parent has abused or neglected the juvenile. The juvenile shall be deemed to be abused or neglected if the court finds the juvenile to be an abused juvenile within the

meaning of G.S. 7B-101 or a neglected juvenile within the meaning of G.S. 7B-101.

(2) The parent has willfully left the juvenile in foster care or placement outside the home for more than 12 months without showing to the satisfaction of the court that reasonable progress under the circumstances has been made within 12 months in correcting those conditions which led to the removal of the juvenile. Provided, however, that no parental rights shall be terminated for the sole reason that the parents are unable to care for the juvenile on account of their poverty.

(3) The juvenile has been placed in the custody of a county department of social services, a licensed child-placing agency, a child-caring institution, or a foster home, and the parent, for a continuous period of six months next preceding the filing of the ~~petition,~~ petition or motion, has willfully failed for such period to pay a reasonable portion of the cost of care for the juvenile although physically and financially able to do so.

(4) One parent has been awarded custody of the juvenile by judicial decree or has custody by agreement of the parents, and the other parent whose parental rights are sought to be terminated has for a period of one year or more next preceding the filing of the petition or motion willfully failed without justification to pay for the care, support, and education of the juvenile, as required by said decree or custody agreement.

(5) The father of a juvenile born out of wedlock has not, prior to the filing of a petition or motion to terminate parental rights:

a. Established paternity judicially or by affidavit which has been filed in a central registry maintained by the Department of Health and Human Services; provided, the court shall inquire of the Department of Health and Human Services as to whether such an affidavit has been so filed and shall incorporate into the case record the Department's certified reply; or

b. Legitimated the juvenile pursuant to provisions of G.S. 49-10 or filed a petition for this specific purpose; or

c. Legitimated the juvenile by marriage to the mother of the juvenile; or

d. Provided substantial financial support or consistent care with respect to the juvenile and mother.

(6) That the parent is incapable of providing for the proper care and supervision of the juvenile, such that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101, and that there is a reasonable probability that such incapability will continue for the foreseeable future. Incapability under this subdivision may be the result of substance abuse, mental

retardation, mental illness, organic brain syndrome, or any other similar cause or condition.

(7) The parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the ~~petition.~~ petition or motion.

(8) The parent has committed murder or voluntary manslaughter of another child of the parent or other child residing in the home; has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child, another child of the parent, or other child residing in the home; or has committed a felony assault that results in serious bodily injury to the child, another child of the parent, or other child residing in the home.

(9) The parental rights of the parent with respect to another child of the parent have been terminated involuntarily by a court of competent jurisdiction and the parent lacks the ability or willingness to establish a safe home.

(b) The burden in such proceedings shall be upon the petitioner or movant to prove the facts justifying such termination by clear and convincing evidence."

Section 12. G.S. 7B-1112 reads as rewritten:

"*§ 7B-1112. Effects of termination order.*

An order terminating the parental rights completely and permanently terminates all rights and obligations of the parent to the juvenile and of the juvenile to the parent arising from the parental relationship, except that the juvenile's right of inheritance from the juvenile's parent shall not terminate until a final order of adoption is issued. The parent is not thereafter entitled to notice of proceedings to adopt the juvenile and may not object thereto or otherwise participate therein:

(1) If the juvenile had been placed in the custody of or released for adoption by one parent to a county department of social services or licensed child-placing agency and is in the custody of the agency at the time of the filing of the ~~petition,~~ petition or motion, including a petition or motion filed pursuant to G.S. 7B-1103(6), that agency shall, upon entry of the order terminating parental rights, acquire all of the rights for placement of the juvenile as the agency would have acquired had the parent whose rights are terminated released the juvenile to that agency pursuant to the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes, including the right to consent to the adoption of the juvenile.

(2) Except as provided in subdivision (1) above, upon entering an order terminating the parental rights of one or both parents, the court may place the juvenile in the custody of the ~~petitioner,~~ petitioner or movant, or some other suitable person, or in the custody of the department of social services

or licensed child-placing agency, as may appear to be in the best interests of the juvenile."

Section 13. G.S. 7B-1106(a) reads as rewritten:

"(a) Except as provided in G.S. 7B-1105, upon the filing of the petition, the court shall cause a summons to be issued. The summons shall be directed to the following persons or agency, not otherwise a party petitioner, who shall be named as respondents:

(1) The parents of the juvenile;
(2) Any person who has been judicially appointed as guardian of the person of the juvenile;
(3) The custodian of the juvenile appointed by a court of competent jurisdiction;
(4) Any county department of social services or licensed child-placing agency to whom a juvenile has been released by one parent pursuant to Part 7 of Article 3 of Chapter 48 of the General Statutes or any county department of social services to whom placement responsibility for the child has been given by a court of competent jurisdiction; and
(5) The juvenile, if the juvenile is 12 years of age or older at the time the petition is filed.

Provided, no summons need be directed to or served upon any parent ~~who has previously surrendered~~ who, under Chapter 48 of the General Statutes, has irrevocably relinquished the juvenile to a county department of social services or licensed child-placing agency nor to any parent who has consented to the adoption of the juvenile by the petitioner. The summons shall notify the respondents to file a written answer within 30 days after service of the summons and petition. Service of the summons shall be completed as provided under the procedures established by G.S. 1A-1, Rule 4(j); but the parent of the juvenile shall not be deemed to be under disability even though the parent is a minor."

Section 14. The Legislative Research Commission shall study issues related to expungement of information from the central registry of abuse, neglect, and dependency cases or from judicial records of juvenile cases that alleged abuse, neglect, or dependency. In particular, this study should consider whether expungement (i) from the central registry should be available when a local department of social services does not substantiate a report of abuse, neglect, or dependency or (ii) from the juvenile court record in a case where alleged abuse, neglect, or dependency is not proven by clear and convincing evidence. The Commission shall make recommendations to the 2001 Session of the General Assembly.

Section 15. This act becomes effective October 1, 2000.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

Became law upon approval of the Governor at 10:17 a.m. on the 2nd day of August, 2000.

S.B. 432 **SESSION LAW 2000-184**

AN ACT TO PROVIDE FOR NON-CONTRIBUTORY HEALTH PLAN PREMIUMS FOR ALL RETIRED STATE EMPLOYEES UNDER THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN, AND TO AMEND THE PHYSICIAN AND OPTOMETRIST LICENSURE LAWS TO PROVIDE IMMUNITY AND EXPAND DISCIPLINE OPTIONS, AND TO PROVIDE THAT THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN SHALL COVER THE COST OF ONE ANNUAL PAP SMEAR FOR ANY COVERED FEMALE UNDER THE PLAN'S WELLNESS BENEFIT, AND TO ALLOW INDIVIDUALS EXCLUDED FROM MEMBERSHIP IN THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN FOR FILING FRAUDULENT CLAIMS TO BE CONSIDERED FOR REINSTATEMENT IN THE PLAN.

The General Assembly of North Carolina enacts:

Section 1.(a) G.S. 135-40.2(a)(2) reads as rewritten:

"(a) The following persons are eligible for coverage under the Plan, on a noncontributory basis, subject to the provisions of G.S. 135-40.3:

. . .

(2) Retired teachers, State employees, members of the General Assembly, and retired State law enforcement officers who retired under the Law Enforcement Officers' Retirement System prior to January 1, 1985. ~~For employees first hired on and after October 1, 1995, and members of the General Assembly first taking office on and after October 1, 1995, future coverage as retired employees and retired members of the General Assembly is subject to a requirement that the future retiree have 20 or more years of retirement service credit in order to be covered by the provisions of this subdivision.~~

. . . ."

Section 1.(b) G.S. 135-40.2(a1) and G.S. 135-40.2(b)(11) are repealed.

Section 2. G.S. 135-40.5(e) reads as rewritten:

"(e) Routine Diagnostic Examinations. -- The Plan will pay one hundred percent (100%) of allowable charges for routine diagnostic examinations and tests, including ~~Pap smears,~~ breast, colon, rectal, and prostate exams, X rays, mammograms, blood and blood pressure checks, urine tests, tuberculosis tests, and general health checkups that are medically necessary for the maintenance and improvement of individual health but no more often than once every three years for covered individuals to age 40 years, once every two years for covered individuals to age 50 years, and once a year for covered individuals age 50 years and older, unless a more frequent occurrence is

warranted by a medical condition when such charges are incurred in a medically supervised facility. Routine diagnostic examinations and tests covered under this subsection also include one Pap smear per year for any covered female. Provided, however, that charges for such examinations and tests are not covered by the Plan when they are incurred to obtain or continue employment, to secure insurance coverage, to comply with legal proceedings, to attend schools or camps, to meet travel requirements, to participate in athletic and related activities, or to comply with governmental licensing requirements. The maximum amount payable under this subsection for a covered individual is one hundred fifty dollars ($150.00) per fiscal year."

Section 3. G.S. 135-40.2(h) reads as rewritten:

"(h) No person shall be eligible for coverage as an employee or retired employee or as a dependent of an employee or retired employee upon a finding by the Executive Administrator or Board of Trustees or by a court of competent jurisdiction that the employee or dependent knowingly and willfully made or caused to be made a false statement or false representation of a material fact in a claim for reimbursement of medical services under the Plan. The Executive Administrator and Board of Trustees may make an exception to the provisions of this subsection when persons subject to this subsection have had a cessation of coverage for a period of five years and have made a full and complete restitution to the Plan for all fraudulent claim amounts. Nothing in this subsection shall be construed to obligate the Executive Administrator and Board of Trustees to make an exception as allowed for under this subsection."

Section 4. G.S. 135-40.11(a)(6) reads as rewritten:

"(6) The last day of the month in which a covered individual is found to have knowingly and willfully made or caused to be made a false statement or false representation of a material fact in a claim for reimbursement of medical services under the Plan. The Executive Administrator and Board of Trustees may make an exception to the provisions of this subdivision when persons subject to this subdivision have had a cessation of coverage for a period of five years and have made a full and complete restitution to the Plan for all fraudulent claim amounts. Nothing in this subdivision shall be construed to obligate the Executive Administrator and Board of Trustees to make an exception as allowed for under this subdivision."

Section 5. G.S. 90-14 is amended by adding a new subsection to read:

"(f) A person, partnership, firm, corporation, association, authority, or other entity acting in good faith without fraud or malice shall be immune from civil liability for (i) reporting or investigating the acts or omissions of a licensee or applicant that violate the provisions of subsection (a) of this section or any other provision of law relating to the fitness of a licensee or applicant to practice

medicine and (ii) initiating or conducting proceedings against a licensee or applicant if a complaint is made or action is taken in good faith without fraud or malice. A person shall not be held liable in any civil proceeding for testifying before the Board in good faith and without fraud or malice in any proceeding involving a violation of subsection (a) of this section or any other law relating to the fitness of an applicant or licensee to practice medicine, or for making a recommendation to the Board in the nature of peer review, in good faith and without fraud and malice."

Section 6. G.S. 90-121.2 reads as rewritten:

"§ 90-121.2. Rules and regulations; discipline, suspension, revocation and regrant of certificate.

(a) The Board shall have the power to make, adopt, and promulgate such rules and regulations, including rules of ethics, as may be necessary and proper for the regulation of the practice of the profession of optometry and for the performance of its duties. The Board shall have jurisdiction and power to hear and determine all complaints, allegations, charges of malpractice, corrupt or unprofessional conduct, and of the violation of the rules and regulations, including rules of ethics, made against any optometrist licensed to practice in North Carolina. The Board shall also have the power and authority to: (i) refuse to issue a license to practice optometry; (ii) refuse to issue a certificate of renewal of a license to practice optometry; (iii) revoke or suspend a license to practice optometry; and (iv) invoke such other disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper; in any instance or instances in which the Board is satisfied that such applicant or licensee:

(1) Has engaged in any act or acts of fraud, deceit or misrepresentation in obtaining or attempting to obtain a license or the renewal thereof;

(2) Is a chronic or persistent user of intoxicants, drugs or narcotics to the extent that the same impairs his ability to practice optometry;

(3) Has been convicted of any of the criminal provisions of this Article or has entered a plea of guilty or nolo contendere to any charge or charges arising therefrom;

(4) Has been convicted of or entered a plea of guilty or nolo contendere to any felony charge or to any misdemeanor charge involving moral turpitude;

(5) Has been convicted of or entered a plea of guilty or nolo contendere to any charge of violation of any State or federal narcotic or barbiturate law;

(6) Has engaged in any act or practice violative of any of the provisions of this Article or violative of any of the rules and regulations promulgated and adopted by the Board, or has aided, abetted or assisted any other person or entity in the violation of the same;

(7) Is mentally, emotionally, or physically unfit to practice optometry or is afflicted with such a physical or mental disability as to be deemed dangerous to the health and welfare of his patients. An adjudication of mental incompetency in a court of competent jurisdiction or a determination thereof by other lawful means shall be conclusive proof of unfitness to practice optometry unless or until such person shall have been subsequently lawfully declared to be mentally competent;
(8) Repealed by Session Laws 1981, c. 496, s. 12.
(9) Has permitted the use of his name, diploma or license by another person either in the illegal practice of optometry or in attempting to fraudulently obtain a license to practice optometry;
(10) Has engaged in such immoral conduct as to discredit the optometry profession;
(11) Has obtained or collected or attempted to obtain or collect any fee through fraud, misrepresentation, or deceit;
(12) Has been negligent in the practice of optometry;
(13) Has employed a person not licensed in this State to do or perform any act of service, or has aided, abetted or assisted any such unlicensed person to do or perform any act or service which under this Article can lawfully be done or performed only by an optometrist licensed in this State;
(14) Is incompetent in the practice of optometry;
(15) Has practiced any fraud, deceit or misrepresentation upon the public or upon any individual in an effort to acquire or retain any patient or patients, including false or misleading advertising;
(16) Has made fraudulent or misleading statements pertaining to his skill, knowledge, or method of treatment or practice;
(17) Has committed any fraudulent or misleading acts in the practice of optometry;
(18) Repealed by Session Laws 1981, c. 496, s. 12.
(19) Has, in the practice of optometry, committed an act or acts constituting malpractice;
(20) Repealed by Session Laws 1981, c. 496, s. 12.
(21) Has permitted an optometric assistant in his employ or under his supervision to do or perform any act or acts violative to this Article or of the rules and regulations promulgated by the Board;
(22) Has wrongfully or fraudulently or falsely held himself out to be or represented himself to be qualified as a specialist in any branch of optometry;
(23) Has persistently maintained, in the practice of optometry, unsanitary offices, practices, or techniques;
(24) Is a menace to the public health by reason of having a serious communicable disease;

(25) Has engaged in any unprofessional conduct as the same may be from time to time defined by the rules and regulations of the Board.

In addition to and in conjunction with the actions described above, the Board may make a finding adverse to a licensee or applicant but withhold imposition of judgment and penalty or it may impose judgment and penalty but suspend enforcement thereof and place the licensee on probation, which probation may be vacated upon noncompliance with such reasonable terms as the Board may impose. The Board may administer a public or private reprimand or a private letter of concern, and the private reprimand and private letter of concern shall not require a hearing in accordance with G.S. 90-121.3 and shall not be disclosed to any person except the licensee. The Board may require a licensee to: (i) make specific redress or monetary redress; (ii) provide free public or charity service; (iii) complete educational, remedial training, or treatment programs; (iv) pay a fine; and (v) reimburse the Board for disciplinary costs.

(b) If any person engages in or attempts to engage in the practice of optometry while his license is suspended, his license to practice optometry in the State of North Carolina may be permanently revoked.

(c) The Board may, on its own motion, initiate the appropriate legal proceedings against any person, firm or corporation when it is made to appear to the Board that such person, firm or corporation has violated any of the provisions of this Article.

(d) The Board may appoint, employ or retain an investigator or investigators for the purpose of examining or inquiring into any practices committed in this State that might violate any of the provisions of this Article or any of the rules and regulations promulgated by the Board.

(e) The Board may employ or retain legal counsel for such matters and purposes as may seem fit and proper to said Board.

(f) As used in this section the term 'licensee' includes licensees, provisional licensees and holders of intern permits, and the term 'license' includes license, provisional license and intern permit.

(g) A person, partnership, firm, corporation, association, authority, or other entity acting in good faith without fraud or malice shall be immune from civil liability for (i) reporting or investigating the acts or omissions of a licensee or applicant that violate the provisions of subsection (a) of this section or any other provision of law relating to the fitness of a licensee or applicant to practice optometry and (ii) initiating or conducting proceedings against a licensee or applicant if a complaint is made or action is taken in good faith without fraud or malice. A person shall not be held liable in any civil proceeding for testifying before the Board in good faith and without fraud or malice in any proceeding involving a violation of subsection (a) of this section or any other law relating to the fitness of an applicant or licensee to practice optometry, or for making a recommendation to the Board in the nature of peer review, in good faith and without fraud and malice."

Section 7. Sections 1, 2, 3, and 4 of this act become effective August 1, 2000. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Became law upon approval of the Governor at 10:18 a.m. on the 2nd day of August, 2000.

H.B. 1501 **SESSION LAW 2000-185**

AN ACT TO ALLOW SERVICE OF PROCESS BY PUBLICATION IN MOTOR VEHICLE LIEN CASES IN SMALL CLAIMS COURT, AS RECOMMENDED BY THE NORTH CAROLINA COURTS COMMISSION, TO AUTHORIZE AN INCREASE OF THE TOTAL WIDTH OF VEHICLES OR COMBINATIONS OF VEHICLES OPERATED ON THE STATE HIGHWAYS, AND TO DIRECT THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO STUDY THE ISSUE OF MOTOR VEHICLE LENGTH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-211.1 reads as rewritten:

"*§ 7A-211.1. Actions to enforce motor vehicle mechanic and storage liens.*

Notwithstanding the provisions of G.S. 7A-210(2) and 7A- 211, the chief district judge may in his discretion, by specific order or general rule, assign to any magistrate of his district actions to enforce motor vehicle mechanic and storage liens arising under G.S. 44A-2(d) or 20-77(d) when the claim arose in the county in which the magistrate resides. The defendant may be subjected to the jurisdiction of the court over his person by the methods provided in G.S. 7A-217 or 1A-1, ~~Rule 4(j),~~ Rules 4(j) and 4(j1), Rules of Civil Procedure."

Section 2. G.S. 20-116(a) reads as rewritten:

"(a) The total outside width of any vehicle or the load thereon shall not exceed ~~96~~ 102 inches, except as otherwise provided in this section. When hogsheads of tobacco are being transported, a tolerance of six inches is allowed. When sheet or bale tobacco is being transported the load must not exceed a width of 114 inches at the top of the load and the bottom of the load at the truck bed must not exceed the width of 102 inches inclusive of allowance for load shifting or settling. ~~Special mobile equipment is allowed a total outside width not to exceed 102 inches.~~ Vehicles (other than passenger buses) that do not exceed the overall width of 102 inches and otherwise provided in this section may be operated in accordance with G.S. 20-115.1(c), (f), and (g)."

Section 3. The Joint Legislative Transportation Oversight Committee, with the assistance of the Department of Transportation, shall study the issue of motor vehicle lengths. The Committee shall examine both the issue of trailers of 53 feet in length and vehicles with a total overall length of 70 feet as a part of its study. The

Department of Transportation is directed to assist the Committee in its study by developing data on the types and lengths of truck equipment sold and operated in the State. The Department shall report to the Committee by October 1, 2000. The Committee shall submit its final report on this issue, along with any recommended legislation, to the 2001 Regular Session of the General Assembly on or before January 15, 2001.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 10:18 a.m. on the 2nd day of August, 2000.

S.B. 414 **SESSION LAW 2000-186**

AN ACT TO CLOSE A LOOPHOLE IN THE MINIMUM HOUSING STANDARDS ACT AS IT APPLIES TO MUNICIPALITIES LOCATED IN COUNTIES WITH POPULATIONS IN EXCESS OF SEVENTY-ONE THOUSAND PEOPLE BY THE LAST CENSUS WHERE THE OWNER CAN AVOID ORDERS TO REPAIR, REMOVE, OR DEMOLISH A RENTAL UNIT BY SIMPLY CLOSING IT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-443(5a) reads as rewritten:

"(5a) If the governing body shall have adopted an ordinance, or the public officer shall have:

a. In a municipality located in counties which have a population in excess of ~~163,000~~ 71,000 by the last federal census, other than municipalities with a population in excess of 190,000 by the last federal census, issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in subdivision (3)a, and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or order;

b. In a municipality with a population in excess of 190,000 by the last federal census, commenced proceedings under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed, as provided in subdivision (3)a., and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or after such proceedings have commenced,

then if the governing body shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the

continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing body may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or

b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the Office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

This subdivision only applies to municipalities located in counties which have a population in excess of ~~163,000~~ 71,000 by the last federal census."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 10:19 a.m. on the 2nd day of August, 2000.

S.B. 1046 **SESSION LAW 2000-187**

AN ACT TO MAKE CERTAIN EMPLOYEES OF STATE LICENSING AND EXAMINING BOARDS MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-1.1 reads as rewritten:

"*§ 135-1.1. Licensing and examining boards.*

(a) Any State board or agency charged with the duty of administering any law relating to the examination and licensing of persons to practice a profession, trade or occupation, in its discretion, may elect on or before July 1, 1983, by an appropriate resolution of said board, to cause its employees so employed prior to July 1, 1983 to become members of the Teachers' and State Employees' Retirement System. Such Retirement System coverage shall be conditioned on such board's paying all of the employer's contributions or matching funds from funds of the board and on such board's collecting from its employees the employees' contributions, at such rates as may be fixed by law and by the regulations of the Board of Trustees of the Retirement System, all of such funds to be paid to the Retirement System and placed in the appropriate funds. Retroactive coverage of the employees of any such board may also be effected to the extent that such board requests provided the board pays all of the employer's contributions or matching funds necessary for such purpose and provided said board collects from its employees all employees' contributions necessary for such purpose, computed at such rates and in such amount as the Board of Trustees of the Retirement System determines, all of such funds to be paid to the Retirement System, together with such interest as may be due, and placed in the appropriate funds.

(b) Notwithstanding any other provision of this Chapter, any State board or agency charged with the duty of administering any law relating to the examination and licensing of persons to practice a profession, trade, or occupation, and who is subject to the provisions of the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes, may make an irrevocable election by appropriate resolution of the board, on or before October 1, 2000, to become an employer in the Teachers' and State Employees' Retirement System. Retirement System coverage shall be conditioned on the board's payment of all of the employer's contributions or matching funds from funds of the board and on the board's collecting from its employees the employees' contributions, at such rates as may be fixed by law and by the rules of the Board of Trustees of the Retirement System, all of such funds to be paid to the Retirement System and placed in the appropriate funds. Any person who is an employee of the board on the date the board makes an irrevocable election to participate in the Retirement System may purchase creditable service for periods of employment with the board prior to the election by making a lump-sum payment equal to the full cost of the service credits calculated on the basis of the assumptions used for the purposes of the actuarial valuation of the system's liabilities, and shall take into account the additional retirement allowance arising on account of such additional service credit commencing at the earliest age at which a member could retire on an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding

the foregoing provisions of this subdivision that provide for the purchase of service credits, the terms 'full cost', 'full liability', and 'full actuarial cost' include assumed annual postretirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance."

Section 2. This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 10:19 a.m. on the 2nd day of August, 2000.

S.B. 1200 **SESSION LAW 2000-188**

AN ACT TO AUTHORIZE ADDITIONAL VOLUNTARY MUNICIPAL PARTICIPATION IN ROAD CONSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-66.3 reads as rewritten:

"*§ 136-66.3. Municipal participation in improvements to the State highway system.*

~~(a) Except as otherwise authorized by this Article, no municipality shall participate in the cost of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4). No municipality shall be required to contribute to the right-of-way and construction costs of any State highway system improvement approved by the Board of Transportation under G.S. 143B-350(f)(4), nor shall the Department of Transportation accept any participation, directly or indirectly, from a municipality except as authorized by this Article.~~

~~(b) The restrictions imposed by this section on participation by municipalities in the implementation of improvements on the State highway system shall not apply to those improvements approved by the Board of Transportation which are financed by funds allocated by the General Assembly for the "Small Urban Construction Program". The municipalities may, but shall not be required to, participate in the right-of-way and construction cost of "Small Urban Construction Program" highway improvements.~~

(a) Municipal Participation Authorized. -- A municipality may, but is not required to, participate in the right-of-way and construction cost of a State highway improvement approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located in the municipality or its extraterritorial jurisdiction.

(b) Process for Initiating Participation. -- A municipality interested in participating in the funding of a State highway improvement project may submit a proposal to the Department of Transportation. The Department and the municipality shall include their respective responsibilities for a proposed municipal participation project in any agreement reached concerning participation.

(c) Type of Participation Authorized. -- A municipality is authorized and empowered to acquire land by dedication and acceptance, purchase, or eminent domain, and make improvements to portions of the State highway system lying within or outside the municipal corporate limits utilizing local funds that have been authorized for that ~~purpose~~ purpose. ~~by a vote of the citizens of the municipality. The governing body of the municipality may call a special referendum at any time to allow this use of funds. The total cost of the improvements authorized by this subsection shall be the responsibility of the municipality and shall not be participated in by the Department of Transportation, nor shall the construction of improvements be a consideration for any other project by the Department of Transportation.~~ All improvements to the State highway system shall be done in accordance with the specifications and requirements of the Department of ~~Transportation and shall be set forth in an agreement entered into between the municipality and the Department. The Board of Transportation shall not give consideration to or credit for such locally financed improvements in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~ Transportation.

(c1) No TIP Disadvantage for Participation. -- If a municipality participates in a State highway system improvement project, as authorized by this section, the Department shall ensure that the municipality's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4) and located outside the municipality.

(c2) Distribution of State Funds Made Available by Municipal Participation. -- Any State or federal funds allocated to a project that are made available by municipal participation in a project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4) shall remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.

(c3) Limitation on Agreements. -- The Department shall not enter into any agreement with a municipality to provide additional total funding for highway construction in the municipality in exchange for municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).

(d) Authorization to Participate in Development-Related Improvements. -- When in the review and approval by a municipality of plans for the development of property abutting the State highway system it is determined by the municipality that improvements to the State highway system are necessary to provide for the safe and orderly movement of traffic, the municipality is authorized to construct, or have constructed, said improvements to the State highway system in vicinity of the development. For purposes of this section, improvements include but are not limited to additional travel lanes, turn lanes, curb and gutter, and drainage facilities. All improvements to the State highway system shall be constructed in accordance with the specifications and requirements of the Department of Transportation and be approved by the Department of Transportation.

(e) Authorization to Participate in Project Additions. -- Pursuant to an agreement with the Department of Transportation, ~~A~~ a municipality may ~~pursuant to an agreement with the Department of Transportation~~ reimburse the Department of Transportation for the cost of all improvements, including additional right-of-way, for a street or highway improvement ~~project~~ projects approved by the Board of Transportation under ~~G.S. 143B-350(f)(4)~~ G.S. 143B-350(f)(4), that are in addition to those improvements that the Department of Transportation would normally include in the project.

~~(f) Municipalities having a population of less than 10,000 according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer shall not participate in the right-of-way and construction costs of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4).~~

~~Municipalities having a population of 10,000 or more according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer may, but shall not be required by the Department or Board of Transportation, participate up to a maximum percentage as shown below in the cost of rights-of-way of the portion of any transportation improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located within the municipal corporate limits:~~

~~Municipal Population~~	~~Maximum Participation In Right-of-Way Costs~~
~~10,000 - 25,000~~	~~5%~~
~~25,001 - 50,000~~	~~10%~~
~~50,001 - 100,000~~	~~15%~~
~~over 100,000~~	~~25%~~

(e1) Reimbursement Procedure. -- ~~Any participation shall be set forth in an agreement between the municipality and the Department of Transportation.~~ Upon request of the municipality, the Department of Transportation shall allow the municipality a period of not less than three years from the date construction of the project is initiated to reimburse the Department their agreed upon share of the costs ~~of rights-of-way~~ necessary for the project. The Department of Transportation shall not charge a municipality any interest ~~on its agreed upon share of rights-of-way costs.~~ during the initial three years.

(f) Report to General Assembly. -- The ~~Secretary~~ Department shall report in writing, on a monthly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between municipalities and the Department of Transportation. The report shall state in summary form the contents of such agreements.

(g) Municipal Acquisition of Rights-of-Way. -- In the acquisition of rights-of-way for any State highway system street or highway in or

around a municipality, the municipality shall be vested with the same authority to acquire such rights-of-way as is granted to the Department of Transportation in this Chapter. In the acquisition of such rights-of-way, municipalities may use the procedures provided in Article 9 of this Chapter, and wherever the words "Department of Transportation" appear in Article 9 they shall be deemed to include "municipality" or "municipal governing body," and wherever the words "Administrator," "Administrator of Highways," "Administrator of the Department of Transportation," or "Chairman of the Department of Transportation" appear in Article 9 they shall be deemed to include "municipal clerk". It is the intention of this subsection that the powers herein granted to municipalities for the purpose of acquiring rights-of-way shall be in addition to and supplementary to those powers granted in any local act or in any other general statute, and in any case in which the provisions of this subsection or Article 9 of this Chapter are in conflict with the provisions of any local act or any other provision of any general statute, then the governing body of the municipality may in its discretion proceed in accordance with the provisions of such local act or other general statute, or, as an alternative method of procedure, in accordance with the provisions of this subsection and Article 9 of this Chapter.

(h) Department Authority Concerning Rights-of-Way. -- In the absence of an agreement, the Department of Transportation shall retain authority to pay the full cost of acquiring rights-of-way where the proposed project is deemed important to a coordinated State highway system.

(i) Changes to Municipal Participation Agreement. -- Either the municipality or the Department of Transportation may at any time propose changes in the agreement setting forth their respective responsibilities ~~for right-of-way acquisition~~ by giving notice to the other party, but no change shall be effective until it is adopted by both the municipal governing body and the Department of Transportation.

(j) Municipality Party to Rights-of-Way Proceeding. -- Any municipality that agrees to contribute any part of the cost of acquiring rights-of-way for any State highway system street or highway shall be a proper party in any proceeding in court relating to the acquisition of such rights-of-way.

(k) Specified County Participation. -- In addition to the authority given to Burke, Cabarrus, and Mecklenburg Counties by Chapter 478 of the 1993 Session Laws, these counties are authorized to participate in State highway improvement projects located anywhere in each respective county in accordance with this section."

Section 2. This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law upon approval of the Governor at 10:20 a.m. on the 2nd day of August, 2000.

S.B. 1284 **SESSION LAW 2000-189**

AN ACT TO IMPLEMENT A RECOMMENDATION OF THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE TO REVISE OBSOLETE STATUTORY REFERENCES TO VARIOUS ADMINISTRATIVE PROCEDURE ACT PROVISIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1368.6(e) reads as rewritten:

"(e) Revocation Hearing. -- Before finally revoking post-release supervision, the Commission shall, unless the supervisee waived the hearing or the time limit, provide a hearing within 45 days of the supervisee's reconfinement to determine whether to revoke supervision finally. For purposes of this subsection, the 45-day period begins when the preliminary hearing required by subsection (b) of this section is held or waived, or upon the passage of seven working days after arrest, whichever is sooner. The Commission shall adopt rules governing the ~~hearing and shall file and publish them as provided in Article 5 of Chapter 150B of the General Statutes.~~ hearing."

Section 2. G.S 15A-1376 reads as rewritten:

"(e) Revocation Hearing. -- Before finally revoking parole, the Post-Release Supervision and Parole Commission must, unless the parolee waived the hearing or the time limit, provide a hearing within 45 days of the parolee's reconfinement to determine whether to revoke parole finally. The Post-Release Supervision and Parole Commission must adopt ~~regulations~~ rules governing the ~~hearing and must file and publish them as provided in Article 5 of Chapter 150B of the General Statutes.~~ hearing."

Section 3. G.S. 15B-6(a)(1) reads as rewritten:

"(a) In addition to powers authorized by this Chapter and Chapter 150B, the Commission may:

(1) Adopt rules in accordance with Part 3, Article 1 of Chapter 143B and Article ~~2~~ 2A of Chapter 150B of the General Statutes necessary to carry out the purposes of this Chapter;".

Section 4. G.S. 90-88(d) reads as rewritten:

"(d) If any substance is designated, rescheduled or deleted as a controlled substance under federal law, the Commission shall similarly control or cease control of, the substance under this Article unless the Commission objects to such inclusion. The Commission, at its next regularly scheduled meeting that takes ~~places [place]~~ place 30 days after publication in the Federal Register of a final order scheduling a substance, shall determine either to adopt a rule to similarly control the substance under this Article or to object to such action. No rule-making notice or hearing as specified by ~~G.S. [Chapter]~~ Chapter 150B of the General Statutes is required if the Commission makes a decision to similarly control a ~~substance, but any rule so adopted shall be filed pursuant to Article 5 of Chapter 150B.~~ substance. However, if the

Commission makes a decision to object to adoption of the federal action, it shall initiate rule-making procedures pursuant to ~~G.S. [Chapter] 150B~~ Chapter 150B of the General Statutes within 180 days of its decision to object."

Section 5. G.S. 90-116 reads as rewritten:

"*§ 90-116. Board of Examiners in Optometry.*

In order to properly regulate the practice of optometry, there is established a North Carolina State Board of Examiners in Optometry, which shall consist of five regularly graduated optometrists who have been engaged in the practice of optometry in this State for at least five years and two members to represent the public at large.

No public member shall at any time be a health care provider, be related to or be the spouse of a health care provider, or have any pecuniary interest in the profitability of a health care provider. For purposes of this section, the term "health care provider" shall have the same meaning as provided in G.S. 58-47-5(4). The Governor shall appoint the two public members not later than July 1, 1981.

The optometric members of the Board shall be appointed by the Governor from a list provided by the North Carolina State Optometric Society. For each vacancy, the society must submit at least three names to the Governor. The society shall establish procedures for the nomination and election of optometrist members of the Board. These procedures shall be adopted under the rule-making procedures described in Article ~~2,~~ 2A, Chapter 150B of the General Statutes, and notice of the proposed procedures shall be given to all licensed optometrists residing in North Carolina. Such procedures shall not conflict with the provisions of this section. Every optometrist with a current North Carolina license residing in the State shall be eligible to vote in all such elections, and the list of licensed optometrists shall constitute the registration list for elections. Any decision of the society relative to the conduct of such elections may be challenged by civil action in the Wake County Superior Court. A challenge must be filed not later than 30 days after the society has rendered the decision in controversy, and all such cases shall be heard de novo.

All Board members serving on June 30, 1981, shall be eligible to complete their respective terms. No member appointed to a term on or after July 1, 1981, shall serve more than two complete consecutive five-year terms, except that each member shall serve until his successor is chosen and qualifies.

The Governor may remove any member for good cause shown. Any vacancy in the optometrist membership of the Board shall be filled for the period of the unexpired term by the Governor from a list of at least three names submitted by the North Carolina State Optometric Society Executive Council. Any vacancy in the public membership of the Board shall be filled by the Governor for the unexpired term."

Section 6. G.S. 90-140 reads as rewritten:

"*§ 90-140. Selection of chiropractic members of Board.*

The Governor and the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall appoint chiropractic

members of the Board for terms of three years from a list provided by the Board, and the General Assembly upon the recommendation of the Speaker of the House of Representatives shall appoint a chiropractic member of the Board for a term of two years from a list provided by the Board. For each vacancy, the Board must submit at least three names to the Governor, President Pro Tempore of the Senate and Speaker of the House.

The Board shall establish procedures for the nomination and election of chiropractic members. These procedures shall be adopted under Article ~~2~~ 2A of Chapter 150B of the General Statutes, and notice of the proposed procedures shall be given to all licensed chiropractors residing in North Carolina. These procedures shall not conflict with the provisions of this section. Every chiropractor with a current North Carolina license residing in this State shall be eligible to vote in all such elections, and the list of licensed chiropractors shall constitute the registration list for elections. Any decision of the Board relative to the conduct of such elections may be challenged by civil action in the Wake County Superior Court. A challenge must be filed not later than 30 days after the Board has rendered the decision in controversy, and all such cases shall be heard de novo."

Section 7. G.S. 90-223(b)(1) reads as rewritten:

"(b) The Board shall have the authority to make or amend rules and regulations not inconsistent with this Article governing the practice of dental hygiene and the granting, revocation and suspension of licenses and provisional licenses of dental hygienists.

(1) Any rule ~~promulgated or amended~~ adopted under this Article shall ~~be filed and distributed in accordance with the provisions of Article 5 of Chapter 150B of the General Statutes of North Carolina. A copy must~~ be distributed to all licensed dentists and all licensed dental hygienists within 30 days of final approval by the Board."

Section 8. G.S. 113-55.2(a) reads as rewritten:

"(a) To encourage the cooperation of the public in achieving the objectives of the forest laws, the Secretary may provide for the issuance of warning tickets instead of the initiation of criminal prosecution by forest rangers and forest law-enforcement officers. Issuance of the warning tickets shall be in accordance with criteria administratively promulgated by the Secretary within the requirements of this section. These criteria are exempt from Article ~~2~~ 2A of Chapter 150B of the General ~~Statutes but shall be filed in accordance with Article 5 of that Chapter.~~ Statutes."

Section 9. G.S. 113-221(e1) reads as rewritten:

"(e1) Pursuant to the request of five or more members of the Marine Fisheries Commission, its chairman may call an emergency meeting of the Commission to review: (1) a proposed issuance or issuance of proclamations under the authority delegated to the Fisheries Director pursuant to (e) of this section, except those proclamations issued for reasons of public health; or (2) the need to issue a proclamation to allow the taking of certain fisheries resources

in areas not opened through proclamations issued by the Fisheries Director. At least 48 hours prior to any such meeting, a public announcement of the meeting shall be issued that describes the action requested by the members of the Commission; and the Department must make every reasonable effort to give actual notice of the meeting to persons who may be affected thereby. After its review is complete, the Marine Fisheries Commission, consistent with its duty to protect, preserve, and enhance the commercial and sports fisheries resources of the State, may (1) approve, cancel, or modify the proposed proclamation or issued proclamation under review; or (2) direct the Fisheries Director to issue a proclamation that allows the taking of certain fisheries resources.

The variable conditions that affect such resource management decisions require that these emergency meetings and any resulting orders by the Commission be exempt from the provisions of ~~Articles 2 and 5~~ Article 2A of Chapter 150B. The decisions of the Marine Fisheries Commission shall be the final decision of the State and shall not be set aside on judicial review unless found to be arbitrary and capricious."

Section 10. G.S. 113-275(a1) reads as rewritten:

"(a1) Notwithstanding the fees specified for nonresident individuals by G.S. 113-270.2, 113-270.3, 113-270.5, 113-271, 113-272, 113-272.2, and 113-273, if the Wildlife Resources Commission finds that a state has a nonresident license fee related to wildlife resources that exceeds the fee for a comparable nonresident license in North Carolina, the Wildlife Resources Commission may, by resolution in official session, increase the nonresident license fee applicable to citizens of that state to an amount equal to the fee a North Carolina resident is required to pay in that state.

The action of the Wildlife Resources Commission to increase a fee pursuant to this subsection is not subject to the provisions of Article ~~2~~ 2A of Chapter 150B of the General Statutes. ~~Notwithstanding the provisions of G.S. 150B-59(a), the~~ The action of the Wildlife Resources Commission to increase a fee pursuant to this subsection becomes effective on the date specified by the Wildlife Resources Commission."

Section 11. G.S. 113A-115(a) reads as rewritten:

"(a) Prior to adopting any rule permanently designating any area of environmental concern the Secretary and the Commission shall hold a public hearing in each county in which lands to be affected are located, at which public and private parties shall have the opportunity to present comments and views. Hearings required by this section are in addition to the hearing required by Article ~~2~~ 2A of Chapter 150B of the General Statutes. The following provisions shall apply for all such hearings:

(1) Notice of any such hearing shall be given not less than 30 days before the date of such hearing and shall state the date, time and place of the hearing, the subject of the hearing, and the action to be taken. The notice shall specify that a

copy of the description of the area or areas of environmental concern proposed by the Secretary is available for public inspection at the county courthouse of each county affected.

(2) Any such notice shall be published at least once in one newspaper of general circulation in the county or counties affected at least 30 days before the date on which the public hearing is scheduled to begin.

(3) Any person who desires to be heard at such public hearing shall give notice thereof in writing to the Secretary on or before the first date set for the hearing. The Secretary is authorized to set reasonable time limits for the oral presentation of views by any one person at any such hearing. The Secretary shall permit anyone who so desires to file a written argument or other statement with him in relation to any proposed plan any time within 30 days following the conclusion of any public hearing or within such additional time as he may allow by notice given as prescribed in this section.

(4) Upon completion of the hearing and consideration of submitted evidence and arguments with respect to any proposed action pursuant to this section, the Commission shall adopt its final action with respect thereto and shall file a duly certified copy thereof with the Attorney General and with the board of commissioners of each county affected thereby."

Section 12. G.S. 130A-309.29 reads as rewritten:

"§ *130A-309.29. Adoption of rules.*

The Commission may adopt rules to implement the provisions of this Part pursuant to Article ~~2~~ 2A of Chapter 150B of the General Statutes."

Section 13. G.S. 130B-8(a)(8) reads as rewritten:

"(a) Neither the Commission nor any contractor performing services on behalf of the Commission shall be subject to the following provisions of the General Statutes:

. . .

(8) Article ~~2~~ 2A of Chapter 150B shall not apply to contractor selection or technology selection pursuant to G.S. 130B-13 and G.S. 130B-14. Articles 3 and 3A of Chapter 150B shall not apply to final decisions regarding site selection, contractor selection or technology selection pursuant to G.S. 130B-11, 130B-13, and 130B-14."

Section 14. G.S. 150B-1(d)(2) is repealed.

Section 15. Effective dates. Section 14 of this act is effective July 1, 2000. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

Became law upon approval of the Governor at 10:20 a.m. on the 2nd day of August, 2000.

H.B. 968 **SESSION LAW 2000-190**

AN ACT TO MODIFY THE PROCEDURES CONCERNING FINAL ADMINISTRATIVE DECISIONS IN CONTESTED CASES HEARD BY THE OFFICE OF ADMINISTRATIVE HEARINGS, TO AUTHORIZE ADMINISTRATIVE LAW JUDGES TO AWARD REASONABLE ATTORNEY'S FEES IN CERTAIN CASES, AND TO AUTHORIZE THE COURTS TO AWARD REASONABLE ATTORNEY'S FEES FOR ADMINISTRATIVE HEARINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 6-19.1 reads as rewritten:

"*§ 6-19.1. Attorney's fees to parties appealing or defending against agency decision.*

In any civil action, other than an adjudication for the purpose of establishing or fixing a rate, or a disciplinary action by a licensing board, brought by the State or brought by a party who is contesting State action pursuant to G.S. 150B-43 or any other appropriate provisions of law, unless the prevailing party is the State, the court may, in its discretion, allow the prevailing party to recover reasonable attorney's ~~fees~~ fees, including attorney's fees applicable to the administrative review portion of the case, in contested cases arising under Article 3 of Chapter 150B, to be taxed as court costs against the appropriate agency if:

(1) The court finds that the agency acted without substantial justification in pressing its claim against the party; and

(2) The court finds that there are no special circumstances that would make the award of attorney's fees unjust.

The party shall petition for the attorney's fees within 30 days following final disposition of the case. The petition shall be supported by an affidavit setting forth the basis for the request.

Nothing in this section shall be deemed to authorize the assessment of attorney's fees for the administrative review portion of the case in contested cases arising under Article 9 of Chapter 131E of the General Statutes.

Nothing in this section grants permission to bring an action against an agency otherwise immune from suit or gives a right to bring an action to a party who otherwise lacks standing to bring the action.

Any attorney's fees assessed against an agency under this section shall be charged against the operating expenses of the agency and shall not be reimbursed from any other source."

Section 2. G.S. 7A-750 reads as rewritten:

"*§ 7A-750. Creation; status; purpose.*

There is created an Office of Administrative Hearings. The Office of Administrative Hearings is an independent, quasi-judicial agency under Article III, Sec. 11 of the Constitution and, in accordance with Article IV, Sec. 3 of the Constitution, has such judicial powers as may be reasonably necessary as an incident to the accomplishment of

the purposes for which it is created. The Office of Administrative Hearings is established to ensure that administrative decisions are made in a fair and impartial manner to protect the due process rights of citizens who challenge administrative action and to provide a source of independent ~~hearing officers to preside in administrative cases and thereby~~ administrative law judges to conduct administrative hearings in contested cases in accordance with Chapter 150B of the General Statutes and thereby prevent the commingling of legislative, executive, and judicial functions in the administrative process. It shall also maintain dockets and records of contested cases and shall codify and publish all administrative rules."

Section 3. G.S. 7A-754 reads as rewritten:

"*§ 7A-754. Qualifications; standards of conduct; removal.*

Only persons duly authorized to practice law in the General Court of Justice shall be eligible for appointment as the Director and chief administrative law judge or as an administrative law judge in the Office of Administrative Hearings. The Chief Administrative Law Judge and the administrative law judges shall comply with the Model Code of Judicial Conduct for State Administrative Law Judges, as adopted by the National Conference of Administrative Law Judges, Judicial Division, American Bar Association, (revised August 1998), as amended from time to time, except that the provisions of this section shall control as to the private practice of law in lieu of Canon 4G, and G.S. 126-13 shall control as to political activity in lieu of Canon 5. Failure to comply with the applicable provisions of the Model Code may constitute just cause for disciplinary action under Chapter 126 of the General Statutes and grounds for removal from office. Neither the chief administrative law judge nor any administrative law judge may engage in the private practice of law as defined in G.S. 84-2.1 while in office; violation of this provision shall constitute just cause for disciplinary action under Chapter 126 of the General Statutes and shall be grounds for ~~removal.~~ removal from office. Each administrative law judge shall take the oaths required by Chapter 11 of the General Statutes. An administrative law judge may be removed from office by the Director of the Office of Administrative Hearings for just cause, as that term is used in ~~G.S. 126-35.~~ G.S. 126-35 and this section."

Section 4. G.S. 150B-29(a) reads as rewritten:

"(a) In all contested cases, irrelevant, immaterial and unduly repetitious evidence shall be excluded. Except as otherwise provided, the rules of evidence as applied in the trial division of the General Court of Justice shall be followed; but, when evidence is not reasonably available under the rules to show relevant facts, then the most reliable and substantial evidence available shall be admitted. On the judge's own motion, an administrative law judge may exclude evidence that is inadmissible under this section. The party with the burden of proof in a contested case must establish the facts required by G.S. 150B-23(a) by a preponderance of the evidence. It shall not be necessary for a party or his attorney to object at the hearing to

evidence in order to preserve the right to object to its consideration by the administrative law judge in making a ~~recommended~~ decision, by the agency in making a final decision, or by the court on judicial review."

Section 5. G.S. 150B-33(b) reads as rewritten:

"(b) An administrative law judge may:

. . .

(11) Order the assessment of reasonable attorneys' fees and witnesses' fees against the State agency involved in contested cases decided under Chapter 126 where the administrative law judge finds discrimination, harassment, or orders reinstatement or back pay."

Section 6. G.S. 150B-34 reads as rewritten:

"§ *150B-34. ~~Recommended decision~~ Decision ~~or order~~ of administrative law judge.*

(a) Except as provided in G.S. 150B-36(c), and subsection (c) of this section, in each contested case the administrative law judge shall make a ~~recommended~~ decision ~~or order~~ that contains findings of fact and conclusions of ~~law.~~ law and return the decision to the agency for a final decision in accordance with G.S. 150B-36. The administrative law judge shall decide the case based upon the preponderance of the evidence, giving due regard to the demonstrated knowledge and expertise of the agency with respect to facts and inferences within the specialized knowledge of the agency. All references in this Chapter to the administrative law judge's decision shall include orders entered pursuant to G.S. 150B-36(c).

(b) Repealed by Session Laws 1991, c. 35, s. 6.

(c) Notwithstanding subsection (a) of this section, in cases arising under Article 9 of Chapter 131E of the General Statutes, the administrative law judge shall make a recommended decision or order that contains findings of fact and conclusions of law. A final decision shall be made by the agency in writing after review of the official record as defined in G.S. 150B-37(a) and shall include findings of fact and conclusions of law. The final agency decision shall recite and address all of the facts set forth in the recommended decision. For each finding of fact in the recommended decision not adopted by the agency, the agency shall state the specific reason, based on the evidence, for not adopting the findings of fact and the agency's findings shall be supported by substantial evidence admissible under G.S. 150B-29(a), 150B-30, or 150B-31. The provisions of G.S. 150B-36(b), (b1), (b2), (b3), and (d), and G.S. 150B-51 do not apply to cases decided under this subsection.

(d) Except for the exemptions contained in G.S. 150B-1(c) and (e), and subsection (c) of this section, the provisions of this section regarding the decision of the administrative law judge shall apply only to agencies subject to Article 3 of this Chapter, notwithstanding any other provisions to the contrary relating to recommended decisions by administrative law judges."

Section 7. G.S. 150B-36 reads as rewritten:

"§ *150B-36. Final decision.*

(a) Before the agency makes a final decision, it shall give each party an opportunity to file exceptions to the decision ~~recommended~~ made by the administrative law judge, and to present written arguments to those in the agency who will make the final decision or order. If a party files in good faith a timely and sufficient affidavit of personal bias or other reason for disqualification of a member of the agency making the final decision, the agency shall determine the matter as a part of the record in the case, and the determination is subject to judicial review at the conclusion of the case.

(b) Except as provided in G.S. 150B-34(c) or subsection (d) of this section, ~~A~~ a final decision ~~or order~~ in a contested case shall be made by the agency in writing after review of the official record as defined in G.S. 150B-37(a) and shall include findings of fact and conclusions of law. The agency shall adopt each finding of fact contained in the administrative law judge's decision unless the finding is clearly contrary to the preponderance of the admissible evidence, giving due regard to the opportunity of the administrative law judge to evaluate the credibility of witnesses. For each finding of fact not adopted by the agency and each finding of fact made by the agency that is not contained in the administrative law judge's decision, the agency shall follow the procedures set forth in subsections (b1) and (b2) of this section.

(b1) For each finding of fact not adopted by the agency, the agency shall set forth separately and in detail the following:

(1) The reasons for not adopting the findings of fact.

(2) The evidence in the record relied upon by the agency in not adopting the finding of fact contained in the administrative law judge's decision.

Any finding of fact not specifically rejected as required by this subsection shall be deemed accepted for purposes of judicial review of the final decision pursuant to Article 4 of this Chapter.

(b2) For each finding of fact made by the agency that is not contained in the administrative law judge's decision, the agency shall set forth separately and in detail the evidence in the record relied upon by the agency in making the finding of fact. Any new finding of fact made by the agency shall be supported by a preponderance of the admissible evidence in the record. The agency shall not make any new finding of fact that is inconsistent with a finding of fact contained in the administrative law judge's decision unless the finding of fact in the administrative law judge's decision is not adopted as required by subsection (b1) of this section.

(b3) Except as provided in G.S. 150B-34(c), the agency shall adopt the decision of the administrative law judge unless the agency demonstrates that the decision of the administrative law judge is clearly contrary to the preponderance of the admissible evidence in the record. If the agency does not adopt the administrative law judge's ~~recommended~~ decision as its final decision, the agency shall set forth its reasoning for the final decision in light of the findings of fact and

conclusions of law in the final decision, including any exercise of discretion by the agency. ~~state in its decision or order the specific reasons why it did not adopt the administrative law judge's recommended decision.~~ The agency may consider only the official record prepared pursuant to G.S. 150B-37 in making a final decision ~~or order, and the final decision or order shall be supported by substantial evidence admissible under G.S. 150B-29(a), 150B-30, or 150B-31.~~ A copy of the decision ~~or order~~ shall be served upon each party personally or by certified mail addressed to the party at the latest address given by the party to the agency, and a copy shall be furnished to his attorney of record and the Office of Administrative Hearings.

(c) The following decisions made by administrative law judges in contested cases are final decisions appealable directly to superior court under Article 4 of this Chapter:

(1) A determination that the Office of Administrative Hearings lacks jurisdiction.

(2) An order entered pursuant to the authority in G.S. 7A-759(e).

(3) An order entered pursuant to a written prehearing motion that either dismisses the contested case for failure of the petitioner to prosecute or grants the relief requested when a party does not comply with procedural requirements.

(4) An order entered pursuant to a prehearing motion to dismiss the contested case in accordance with G.S. 1A-1, Rule 12(b) when the order disposes of all issues in the contested case.

(d) An administrative law judge may grant judgment on the pleadings, pursuant to a motion made in accordance with G.S. 1A-1, Rule 12(c), or summary judgment, pursuant to a motion made in accordance with G.S. 1A-1, Rule 56, that disposes of all issues in the contested case. Notwithstanding subsection (b) of this section, a decision granting a motion for judgment on the pleadings or summary judgment need not include findings of fact or conclusions of law, except as determined by the administrative law judge to be required or allowed by G.S. 1A-1, Rule 12(c) or Rule 56. For any decision by the administrative law judge granting judgment on the pleadings or summary judgment that disposes of all issues in the contested case, the agency shall make a final decision. If the agency does not adopt the administrative law judge's decision, it shall set forth the basis for failing to adopt the decision and shall remand the case to the administrative law judge for hearing. The party aggrieved by the agency's decision shall be entitled to immediate judicial review of the decision under Article 4 of this Chapter."

Section 8. G.S. 150B-37 reads as rewritten:

"*§ 150B-37. Official record.*

(a) In a contested case, the Office of Administrative Hearings shall prepare an official record of the case that includes:

(1) Notices, pleadings, motions, and intermediate rulings;

(2) Questions and offers of proof, objections, and rulings thereon;
(3) Evidence presented;
(4) Matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose; and
(5) Repealed by Session Laws 1987, c. 878, s. 25.
(6) The administrative law judge's ~~recommended~~ decision, or order.

(b) Proceedings at which oral evidence is presented shall be recorded, but need not be transcribed unless requested by a party. Each party shall bear the cost of the transcript or part thereof or copy of said transcript or part thereof which said party requests, and said transcript or part thereof shall be added to the official record as an exhibit.

(c) The Office of Administrative Hearings shall forward a copy of the official record to the agency making the final decision and shall forward a copy of the ~~recommended~~ administrative law judge's decision to each party."

Section 9. G.S. 150B-44 reads as rewritten:

"*§ 150B-44. Right to judicial intervention when decision unreasonably delayed.*

Unreasonable delay on the part of any agency or administrative law judge in taking any required action shall be justification for any person whose rights, duties, or privileges are adversely affected by such delay to seek a court order compelling action by the agency or administrative law judge. An agency that is subject to Article 3 of this Chapter and is not a board or commission has ~~90~~ 60 days from the day it receives the official record in a contested case from the Office of Administrative Hearings to make a final decision in the case. This time limit may be extended by the parties or, for good cause shown, by the agency for an additional period of up to ~~90~~ 60 days. An agency that is subject to Article 3 of this Chapter and is a board or commission has ~~90~~ 60 days from the day it receives the official record in a contested case from the Office of Administrative Hearings or ~~90~~ 60 days after its next regularly scheduled meeting, whichever is longer, to make a final decision in the case. This time limit may be extended by the parties or, for good cause shown, by the agency for an additional period of up to ~~90~~ 60 days. If an agency subject to Article 3 of this Chapter has not made a final decision within these time limits, the agency is considered to have adopted the administrative law judge's ~~recommended~~ decision as the agency's final decision. Failure of an agency subject to Article 3A of this Chapter to make a final decision within ~~180~~ 120 days of the close of the contested case hearing is justification for a person whose rights, duties, or privileges are adversely affected by the delay to seek a court order compelling action by the agency or, if the case was heard by an administrative law judge, by the administrative law judge."

Section 10. G.S. 150B-49 reads as rewritten:

"*§ 150B-49. New evidence.*

An aggrieved person who files a petition in the superior court may apply to the court to present additional evidence. If the court is satisfied that the evidence is material to the issues, is not merely cumulative, and could not reasonably have been presented at the administrative hearing, the court may remand the case so that additional evidence can be taken. If an administrative law judge did not make a ~~recommended~~ decision in the case, the court shall remand the case to the agency that conducted the administrative hearing. After hearing the evidence, the agency may affirm or modify its previous findings of fact and final decision. If an administrative law judge made a ~~recommended~~ decision in the case, the court shall remand the case to the administrative law judge. After hearing the evidence, the administrative law judge may affirm or modify his previous findings of fact and ~~recommended~~ decision. The administrative law judge shall forward a copy of his decision to the agency that made the final decision, which in turn may affirm or modify its previous findings of fact and final decision. The additional evidence and any affirmation or modification of a ~~recommended~~ decision of the administrative law judge or final decision shall be made part of the official record."

Section 11. G.S. 150B-51 reads as rewritten:

"*§ 150B-51. Scope and standard of review.*

(a) ~~Initial Determination in Certain Cases.~~ In reviewing a final decision in a contested case in which an administrative law judge made a recommended decision and the State Personnel Commission made an advisory decision in accordance with G.S. 126-37(b1), the court shall make two initial determinations. First, the court shall determine whether the agency heard new evidence after receiving the recommended decision. If the court determines that the agency heard new evidence, the court shall reverse the decision or remand the case to the agency to enter a decision in accordance with the evidence in the official record. Second, if the agency did not adopt the recommended decision, the court shall determine whether the agency's decision states the specific reasons why the agency did not adopt the recommended decision. If the court determines that the agency did not state specific reasons why it did not adopt a recommended decision, the court shall reverse the decision or remand the case to the agency to enter the specific reasons.

(a1) In reviewing a final decision in a contested case in which an administrative law judge made a decision, in accordance with G.S. 150B-34(a), and the agency adopted the administrative law judge's decision, the court shall determine whether the agency heard new evidence after receiving the decision. If the court determines that the agency heard new evidence, the court shall reverse the decision or remand the case to the agency to enter a decision in accordance with the evidence in the official record. The court shall also determine whether the agency specifically rejected findings of fact contained in the administrative law judge's decision in the manner provided by G.S. 150B-36(b1) and made findings of fact in accordance with G.S.

150B-36(b2). If the court determines that the agency failed to follow the procedure set forth in G.S. 150B-36, the court may take appropriate action under subsection (b) of this section.

(b) ~~Standard of Review. After making the determinations, if any, required by subsection (a), the court reviewing a final decision~~ Except as provided in subsection (c) of this section, in reviewing a final decision, the court may affirm the decision of the agency or remand the case to the agency or to the administrative law judge for further proceedings. It may also reverse or modify the agency's ~~decision~~ decision, or adopt the administrative law judge's decision if the substantial rights of the petitioners may have been prejudiced because the agency's findings, inferences, conclusions, or decisions are:

(1) In violation of constitutional provisions;
(2) In excess of the statutory authority or jurisdiction of the agency;
(3) Made upon unlawful procedure;
(4) Affected by other error of law;
(5) Unsupported by substantial evidence admissible under G.S. 150B-29(a), 150B-30, or 150B-31 in view of the entire record as submitted; or
(6) ~~Arbitrary or capricious.~~ Arbitrary, capricious, or an abuse of discretion.

(c) In reviewing a final decision in a contested case in which an administrative law judge made a decision, in accordance with G.S. 150B-34(a), and the agency does not adopt the administrative law judge's decision, the court shall review the official record, de novo, and shall make findings of fact and conclusions of law. In reviewing the case, the court shall not give deference to any prior decision made in the case and shall not be bound by the findings of fact or the conclusions of law contained in the agency's final decision. The court shall determine whether the petitioner is entitled to the relief sought in the petition, based upon its review of the official record. The court reviewing a final decision under this subsection may adopt the administrative law judge's decision; may adopt, reverse, or modify the agency's decision; may remand the case to the agency for further explanations under G.S. 150B-36(b1), 150B-36(b2), or 150B-36(b3), or reverse or modify the final decision for the agency's failure to provide the explanations; and may take any other action allowed by law.

(d) In reviewing a final agency decision allowing judgment on the pleadings or summary judgment, or in reviewing an agency decision that does not adopt an administrative law judge's decision allowing judgment on the pleadings or summary judgment pursuant to G.S. 150B-36(d), the court may enter any order allowed by G.S. 1A-1, Rule 12(c) or Rule 56. If the order of the court does not fully adjudicate the case, the court shall remand the case to the administrative law judge for such further proceedings as are just."

Section 12. G.S. 150B-52 reads as rewritten:

"*§ 150B-52. Appeal; stay of court's decision.*

A party to a review proceeding in a superior court may appeal to the appellate division from the final judgment of the superior court as provided in G.S. 7A-27. The scope of review to be applied by the appellate court under this section is the same as it is for other civil cases. In cases reviewed under G.S. 150B-51(a1)(3), the court's findings of fact shall be upheld if supported by substantial evidence. Pending the outcome of an appeal, an appealing party may apply to the court that issued the judgment under appeal for a stay of that judgment or a stay of the administrative decision that is the subject of the appeal, as appropriate."

Section 13. G.S. 126-35 is amended by adding a new subsection to read:

"(d) In contested cases conducted pursuant to Chapter 150B of the General Statutes, the burden of showing that a career State employee subject to the State Personnel Act was discharged, suspended, or demoted for just cause rests with the department or agency employer."

Section 14. This act becomes effective January 1, 2001, and applies to contested cases commenced on or after the effective date.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 10:20 a.m. on the 2nd day of August, 2000.

H.B. 1508 **SESSION LAW 2000-191**

AN ACT TO ELIMINATE THE FINGERPRINTING REQUIREMENT FOR RENEWAL OF A CONCEALED HANDGUN PERMIT WHERE DOING SO WOULD NOT IMPEDE CRIMINAL RECORD UPDATES; TO DECREASE THE FEE FOR RENEWAL OF A CONCEALED HANDGUN PERMIT; TO EXTEND THE CONCEALED HANDGUN PERMIT PERIOD TO FIVE YEARS; AND TO CLARIFY THAT THE RELEASE FORM SUBMITTED FOR A CONCEALED HANDGUN APPLICANT'S MENTAL HEALTH RECORDS MAY BE AN ORIGINAL OR PHOTOCOPIED FORM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-415.16 reads as rewritten:

"*§ 14-415.16. Renewal of permit.*

The holder of a permit shall apply to renew the permit at least 30 days prior to its expiration date by filing with the sheriff of the county in which the person resides a renewal form provided by the sheriff's office, a notarized affidavit stating that the permittee remains qualified under the criteria provided in this Article, a newly administered full set of the permittee's fingerprints, and a renewal fee. Upon receipt of the completed renewal application, including the permittee's fingerprints, and the appropriate payment of fees, the sheriff shall determine if the permittee remains qualified to hold a permit in accordance with the provisions of G.S. 14-415.12. The permittee's

criminal history shall be updated, and the sheriff may waive the requirement of taking another firearms safety and training course. If the permittee applies for a renewal of the permit within 30 days of its expiration date and if the permittee remains qualified to have a permit under G.S. 14-415.12, the sheriff shall renew the permit. No fingerprints shall be required for a renewal permit if the applicant's fingerprints were submitted to the State Bureau of Investigation after June 30, 2001, on the Automated Fingerprint Information System (AFIS) as prescribed by the State Bureau of Investigation."

Section 2. G.S. 14-415.19 reads as rewritten:

"§ *14-415.19. Fees.*

(a) The permit fees assessed under this Article are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer to be remitted or credited by the county finance officer in accordance with the provisions of this subsection. The permit fees are as follows:

Application fee.....	$80.00
Renewal fee.....	~~$80.00~~ $75.00
Duplicate permit fee.....	$15.00

The county finance officer shall remit forty-five dollars ($45.00) of each new application fee ~~or~~ and forty dollars ($40.00) of each renewal fee to the North Carolina Department of Justice for the costs of State and federal criminal record checks performed in connection with processing applications and for the implementation of the provisions of this Article. The remaining thirty-five dollars ($35.00) of each application or renewal fee shall be used by the sheriff to pay the costs of administering this Article and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only.

(b) An additional fee, not to exceed ten dollars ($10.00), shall be collected by the sheriff from an applicant for a permit to pay for the costs of processing the applicant's ~~fingerprints.~~ fingerprints, if fingerprints were required to be taken. This fee shall be retained by the sheriff."

Section 3. G.S. 14-415.14 is amended by adding a new subsection to read:

"(c) Any person or entity who is presented by the applicant or by the sheriff with an original or photocopied release form as described in G.S. 14-415.13(a)(5) shall promptly disclose to the sheriff any records concerning the mental health or capacity of the applicant who signed the form and authorized the release of the records."

Section 4. The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services shall notify by United States mail, telefacsimile, or electronic mail all mental health clinics, hospitals, and licensed mental health professionals in North Carolina about the requirement in Section 3 of this act within 30 days after the effective date of this act.

Section 5. G.S. 14-415.11(b) reads as rewritten:

"(b) The sheriff shall issue a permit to carry a concealed handgun to a person who qualifies for a permit under G.S. 14-415.12. The permit shall be valid throughout the State for a period of ~~four~~ five years from the date of issuance."

Section 6. Section 5 of this act applies to permits issued or renewed on or after July 1, 2000. The remainder of this act is effective July 1, 2000.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Became law upon approval of the Governor at 4:05 p.m. on the 7th day of August, 2000.

RESOLUTIONS

EXTRA SESSION 2000

S.J.R. 3 **RESOLUTION 1**

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 2000 EXTRA SESSION.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. When the Senate and the House of Representatives, constituting the 2000 Extra Session of the General Assembly, do adjourn on Wednesday, April 5, 2000, they stand adjourned sine die.

Section 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 5th day of April, 2000.

REGULAR SESSION 2000

S.J.R. 1495 **RESOLUTION 2000-2**

A JOINT RESOLUTION PROVIDING THAT THE 1999 GENERAL ASSEMBLY SHALL MEET FOR A DAY AT THE STATE CAPITOL IN HONOR OF THE STATE CAPITOL'S 160TH ANNIVERSARY.

Whereas, June 8, 2000, marks the 160th anniversary of the State Capitol; and

Whereas, the General Assembly will hold session at the State Capitol on that date to mark the occasion; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. On Thursday, June 8, 2000, at 10:00 a.m., the Senate and the House of Representatives shall meet at the State Capitol in their respective chambers, then shall meet in joint session in the House of Representatives in the State Capitol, in honor of the 160th anniversary of the State Capitol.

Section 2. The Governor is invited to attend the joint session.

Section 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of June, 2000.

H.J.R. 1860 **RESOLUTION 2000-3**

A JOINT RESOLUTION COMMEMORATING THE 160TH BIRTHDAY OF THE NORTH CAROLINA STATE CAPITOL AND HONORING THE MEMORY OF DECEASED FORMER MEMBERS OF THE GENERAL ASSEMBLY WHO SERVED THERE.

Whereas, the North Carolina State Capitol, completed in 1840, is one of the finest and best preserved examples of a major civic building in the Greek Revival style of architecture; and

Whereas, the Capitol is the second such building on its site. A simple, two-story brick State House was built on Union Square between 1792 and 1796; and

Whereas, the State House was enlarged between 1820 and 1824 by State architect William Nichols, and burned in 1831; and

Whereas, the General Assembly of 1832-1833 ordered that a new Capitol be built as an enlarged version of the old State House, a cross-shaped building with a central, domed rotunda; and

Whereas, the Commissioners for Rebuilding the Capitol first employed William Nichols, Jr. to help them prepare plans for the building, and in August of 1833 Nichols was replaced by the distinguished New York architectural firm of Ithiel Town and Alexander Jackson Davis who modified and greatly improved the earlier design, giving the Capitol essentially its present appearance and plan; and

Whereas, David Paton (1801-1882), an Edinburgh-born architect who had worked for noted English architect John Sloan, was hired in September 1834 to superintend construction of the Capitol, and the Capitol was built under Paton's supervision; and

Whereas, most of the architectural details, columns, mouldings, ornamental plasterwork, and the honeysuckle crown atop the dome were carefully patterned after features of particular ancient Greek temples. The exterior columns are Doric in style and modeled after those of the Parthenon. The House of Representatives chamber follows the semicircular plan of a Greek theater and its architectural ornament is in the Corinthian style of the Tower of Winds. The Senate chamber is decorated in the Ionic style of the Erectheum. The only nonclassical

parts of the building are two rooms on the third floor which were finished in the Gothic style; and

Whereas, the Capitol is 160 feet from north to south, 140 feet from east to west (including the porticoes), and stands 97½ feet from the base of the rotunda to the crown atop the dome, with exterior walls built of gneiss (a form of granite), quarried in southeastern Raleigh and hauled to the site on the horse-drawn Experimental Railroad, the first railway in North Carolina; and

Whereas, the Capitol was completed in 1840 at a total cost of $532,682.34, or more than three times the yearly general income of the State at that time; and

Whereas, the Capitol housed all of North Carolina's State government until the 1880s, when the Supreme Court and State Library moved to a new building; and

Whereas, the General Assembly moved to the State Legislative Building in 1963, and the General Assembly wishes to commemorate the memory of deceased former members who served there; and

Whereas, the office of the Governor is still in the State Capitol; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly commemorates the 160th birthday of the North Carolina State Capitol and honors the memory of all deceased former members of the General Assembly who served there.

Section 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of June, 2000.

H.J.R. 1485 **RESOLUTION 2000-4**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF THOMAS H. DAVIS.

Whereas, Thomas H. Davis was born on March 15, 1918, in Winston-Salem, North Carolina, to Egbert L. Davis and Annie Shore Davis; and

Whereas, Thomas H. Davis graduated from the University of Arizona; and

Whereas, Thomas H. Davis developed a love of flying at an early age and at the age of 16 made his first solo flight in a Taylor E-2 airplane; and

Whereas, at the age of 22, Thomas H. Davis became the sales manager for Camel City Flying Service, a distributor of Piper and Stinson aircraft based in Winston-Salem, North Carolina; and

Whereas, in 1940, Thomas H. Davis founded Piedmont Aviation and became vice-president, treasurer, principal stockholder, and a director of the company; and

Whereas, within a short period of time, Thomas H. Davis established 17 dealerships throughout North Carolina; and

Whereas, Thomas H. Davis helped Piedmont Aviation, Inc., become the first fully certified Civil Aeronautics Association (CAA) approved aircraft and engine overhaul shop between Washington, D.C. and Atlanta, Georgia; and

Whereas, in 1947, Piedmont Aviation branched out with Piedmont Airlines and made its first commercial flight in 1948; and

Whereas, under the leadership of Thomas H. Davis, Piedmont Airlines grew into one of the leading carriers in the airline industry; and

Whereas, in 1981, Thomas H. Davis was elected as Chairman of the Board and Chief Executive Officer of Piedmont Airlines and served in that capacity until his retirement in 1983; and

Whereas, after his retirement, Thomas H. Davis did not give up his passion for flying but continued to fly various aircraft until 1998; and

Whereas, Thomas H. Davis was a philanthropist and supporter of many organizations, including the Baptist Hospital, Wake Forest University School of Medicine, Wake Forest University Divinity School, and the American Lung Association of North Carolina, and served as a board member and trustee of Wake Forest University, President of the Winston-Salem Rotary Club, and President of the Greater Winston-Salem Chamber of Commerce; and

Whereas, Thomas H. Davis was an active member of the Wake Forest Baptist Church; and

Whereas, Thomas H. Davis died on April 22, 1999; and

Whereas, Thomas H. Davis' wife of 41 years, Nancy Teague Davis, died in 1985; and

Whereas, Thomas H. Davis is survived by his children, Thomas H. Davis, Jr., Winifred Davis Pierce, George Franklin Teague Davis, Nancy Davis McGlothlin, and Juliana Davis West, their spouses, eleven grandchildren, and many other close relatives; and

Whereas, the General Assembly wishes to recognize Thomas H. Davis for his accomplishments and extend its sympathy to his family and friends; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly expresses high regard for the life and accomplishments of Thomas H. Davis and mourns the loss of one of the State's most gifted, beloved, and respected citizens.

Section 2. The Secretary of State shall transmit a certified copy of this resolution to the family of Thomas H. Davis.

Section 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of June, 2000.

S.J.R. 819 **RESOLUTION 2000-5**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILMER DAVID "VINEGAR BEND" MIZELL, FORMER NORTH CAROLINA CONGRESSMAN.

Whereas, Wilmer David Mizell was born in Vinegar Bend, Alabama, on August 13, 1930, to Walter David Mizell and Addie Turner Mizell; and

Whereas, Wilmer David Mizell was affectionately known as "Vinegar Bend"; and

Whereas, Wilmer David Mizell graduated from Leakesville High School in Leakesville, Mississippi, in 1949; and

Whereas, Wilmer David Mizell married the late Nancy McAlpine on November 16, 1952; and

Whereas, Wilmer David Mizell proudly served his country as a member of the United States Army from 1953 to 1955; and

Whereas, during Wilmer David Mizell's early adult years, he pitched for the St. Louis Cardinals, the Pittsburgh Pirates, and the New York Mets; and

Whereas, Wilmer David Mizell retired from baseball in 1963 and accepted a position with the Pepsi-Cola Company in Winston-Salem working in the field of sales management and public relations; and

Whereas, Wilmer David Mizell served as a County Commissioner for Davidson County from 1966 to 1968; and

Whereas, Wilmer David Mizell served with honor and distinction as a member of the United States House of Representatives, representing North Carolina's Fifth Congressional District from 1968 to 1974; and

Whereas, Wilmer David Mizell served as Assistant Secretary of Economic Development under President Gerald Ford, as Assistant Secretary of Agriculture under President Ronald Reagan, and as a member of the Council on Physical Fitness under President George Bush; and

Whereas, Wilmer David Mizell was a staunch Republican who never wavered from his beliefs, which earned him admiration and respect from his peers, colleagues, and the citizens he represented; and

Whereas, Wilmer David Mizell was named the Southern Baptist Christian Athlete of the Year in 1951 and was presented the Distinguished Citizen Award of 1969 by George Washington University; and

Whereas, Wilmer David Mizell was active in civic and community organizations, including the American Legion, and served as Chair of the Board of Trustees of Toccoa Falls College in Toccoa Falls, Georgia; and

Whereas, Wilmer David Mizell was a faithful member of Faith Missionary Alliance Church in Winston-Salem, serving as a lay

speaker, deacon, Sunday school superintendent, and church board member; and

Whereas, Wilmer David Mizell died on February 21, 1999; and

Whereas, Wilmer David Mizell was a devoted husband and loving father and grandfather; and

Whereas, Wilmer David Mizell is survived by his wife, Ruth Cox Mizell, two sons, David Mizell and Danny Mizell, two stepchildren, Larry Laws and Linda Pate, four grandchildren and three stepgrandchildren; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly expresses high regard for the life and service of Wilmer David "Vinegar Bend" Mizell and mourns the loss of one of North Carolina's beloved and respected citizens.

Section 2. The General Assembly extends its sincere sympathy to the family of Wilmer David Mizell for the loss of its family member.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Wilmer David Mizell.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 28th day of June, 2000.

H.J.R. 1463 **RESOLUTION 2000-6**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF DAVID CLARK, A FORMER MEMBER OF THE NORTH CAROLINA GENERAL ASSEMBLY.

Whereas, David Clark was born on July 4, 1922, in Lincolnton, North Carolina, to Thorne McKenzie Clark and Mabel Gossett Clark; and

Whereas, David Clark descended from a family that had distinguished itself in State and national affairs: his father, Thorne McKenzie Clark, served as a member of the North Carolina General Assembly in 1937-1938; his grandfather, Judge Walter Clark, served as Chief Justice of the North Carolina Supreme Court; his great-grandfather, William Alexander Graham, served as Governor of North Carolina, United States Senator, Secretary of the United States Navy, and was the nominee of the Whig Party for Vice President of the United States in 1852; and his great-great-grandfather, General Joseph Graham, was a hero of the Revolutionary War and the War of 1812; and

Whereas, David Clark served as a first lieutenant in the United States Army Air Force from 1943 to 1946, seeing action in the Pacific as a bomber pilot, and was awarded a Pacific Theater of Operations Decorated Air Medal; and

Whereas, David Clark graduated from Washington and Lee University in 1947 and from the University of North Carolina School of Law in 1950; and

Whereas, David Clark maintained a successful law practice in Lincolnton from 1950 until his death in 1997; and

Whereas, David Clark was deeply interested and involved in the political affairs of North Carolina throughout his life, serving with distinction in the North Carolina House of Representatives from 1951 to 1957 and in the North Carolina Senate in 1963; and

Whereas, David Clark was appointed by Governors Umstead and Hodges to chair the State Government Reorganization Commission from 1955 to 1957, from which came many measures and initiatives that improved and modernized State government; and

Whereas, David Clark narrowly missed election to the United States House of Representatives on two occasions when he ran spirited campaigns against Charles Raper Jonas; and

Whereas, David Clark devoted much of his professional life to the economic growth and development of his native State and the southeast: he was one of the visionaries whose dream became reality in the Research Triangle Park; he was a successful and innovative real estate developer in varied projects that ranged from major condominium and apartment complexes in Washington, D.C., and Maryland to the first shopping center in Lincoln County to large commercial egg production facilities in Georgia, North Carolina, and Minnesota, to a 104-room motel in Florida to a 2,000-acre cattle farm in Lincoln County. He was a tireless recruiter of industry to North Carolina; and

Whereas, David Clark saw the value and economy of air transportation of goods and materials, and to that end, he created several commercial aviation companies including Mountain Air Cargo, Inc., the very first tenant in the State's Global TransPark; and

Whereas, David Clark was a valuable and dedicated business leader in North Carolina and served as a board member of many companies including Cameron Brown Investment Group, Burris Industries, Washburn Graphics, Carolina First National Bank, and Lincoln County Broadcasting, Inc., (the first radio station in Lincoln County); and

Whereas, David Clark was a volunteer in many civic, cultural, and charitable causes, some of which included the Crossnore School, the American Red Cross, the American Legion, the Veterans of Foreign Wars, the Masons, and Rotary International; and

Whereas, David Clark was a long-time member of First Presbyterian Church of Lincolnton where he served as an officer and Sunday School teacher; and

Whereas, David Clark died on April 18, 1997; and

Whereas, David Clark was a devoted husband to his beloved wife, the former Kathryn King Goode, who predeceased him; a loving father to his four children, David, Jr., Allison, Walter, and Caroline; and a doting grandfather to his grandchildren; and

Whereas, David Clark will be remembered for his many contributions to the State of North Carolina; and

Whereas, the General Assembly wishes to show its appreciation for his life and accomplishments and extend its sincere sympathy to his family; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly expresses high esteem and regard for the extraordinary life and service of David Clark and mourns the loss of one of North Carolina's distinguished native sons.

Section 2. The General Assembly extends its sincere sympathy to the family of David Clark for the loss of a beloved husband, father, grandfather, and friend.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of David Clark.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

S.J.R. 1558 **RESOLUTION 2000-7**

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE GENERAL ASSEMBLY.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. When the Senate and the House of Representatives, constituting the 1999 Session of the General Assembly, do adjourn on Thursday, July 13, 2000, they stand adjourned sine die.

Section 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

JOINT CONFERENCE COMMITTEE REPORT ON THE CONTINUATION, EXPANSION AND CAPITAL BUDGETS

June 30, 2000

Whereas, David Clark will be remembered for his many contributions to the State of North Carolina; and

Whereas, the General Assembly wishes to show its appreciation for his life and accomplishments and extend its sincere sympathy to his family; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly expresses high esteem and regard for the memory of David Clark and mourns the loss of one of its distinguished native sons.

Section 2. The General Assembly extends its sincere sympathy to the family of David Clark for the loss of a beloved husband, father, grandfather, and friend.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of David Clark.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of July, 2000.

S.J.R. 1558 RESOLUTION 2000-7

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In the General Assembly read three times and ratified this the 13th day of July, 2000.

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BUDGET REFORM STATEMENT

	FY 2000-2001 ($ million)
Beginning Unreserved Credit Balance	0.0
Tax Revenues - Current Tax Law	13,216.3
Non-Tax Revenues:	
Investment Income	214.0
Judicial Fees	106.7
Disproportionate Share	105.0
Insurance	42.1
Highway Trust Fund Transfer	170.0
Highway Fund Transfer	13.8
Other Non-Tax Revenues	103.9
Subtotal	13,971.8
HB 1854 - 2000 Fee Bill	6.1
Y2K Reserve Transfer	9.0
Hurricane Fran Reserve Transfer	48.0
11th/12th Month Carryforward Reversion	11.0
HB 1559 IRC Conformity Adjustment	(2.0)
Disproportionate Share Reserve Transfer	1.0
Crime Victims Compensation Fund Reversion	1.0
State/Federal Retirees Administrative Cost Reimbursement	0.1
Federal Retirees Refund Reversion	0.3
SB 1305 - UCC Revision	3.9
Total General Fund Availability	14,050.2

General Fund Appropriations
Fiscal Year 2000-01
2000 Session

	2000-01 Certified Budget	Transfers	Recurring Changes	Nonrecurring Changes	Net Changes	Net Position Changes	Revised Appropriation
Education:							
Public Schools	5,277,518,248	0	(21,970,392)	15,490,000	(6,480,392)	0	5,271,037,856
Community Colleges	591,015,693	0	24,836,827	(7,030,225)	17,806,602	0	608,822,295
University	1,656,863,227	(500,000)	41,169,693	639,810	41,309,503	277	1,698,172,730
Total Education	**7,525,397,168**	**(500,000)**	**44,036,128**	**9,099,585**	**52,635,713**	**277**	**7,578,032,881**
General Government:							
General Assembly	39,518,408	0	0	(272,500)	(272,500)	0	39,245,908
Governor's Office	5,282,172	0	0	0	0	0	5,282,172
State Budget & Management	4,247,782	0	0	200,000	200,000	0	4,447,782
State Planning	2,147,099	0	0	0	0	0	2,147,099
Special Appropriations	3,080,000	0	0	420,000	420,000	0	3,500,000
The Lieutenant Governor	640,485	0	0	0	0	0	640,485
Administration	60,089,326	0	(1,089,572)	1,717,000	627,428	(13)	60,716,754
Office of State Controller	11,488,315	0	0	(115,000)	(115,000)	0	11,373,315
Office of Adminstrative Hearings	2,786,455	0	(64,368)	0	(64,368)	(1)	2,722,087
Rules Review Commission	309,326	0	0	48,000	48,000	0	357,326
Cultural Resources	58,182,464	0	697,502	2,409,640	3,107,142	3	61,289,606
Cultural Resources - Roanoke Island	1,826,157	0	0	0	0	0	1,826,157
Insurance	21,599,037	0	318,097	110,500	428,597	5	22,027,634
Insurance-RICO	4,500,000	0	0	0	0	0	4,500,000
Secretary of State	6,455,933	0	926,618	1,928,053	2,854,671	45	9,310,604
State Auditor	11,608,041	0	(116,090)	144,144	28,054	0	11,636,095
State Treasurer - Operations	6,568,253	0	926,178	7,254,904	8,181,082	7	14,749,335
State Treasurer - Retirement / Benefits	12,294,780	0	0	0	0	0	12,294,780
Revenue	75,755,633	0	(313,905)	(183,166)	(497,071)	0	75,258,562
State Board of Elections	3,199,660	0	0	0	0	0	3,199,660
Total General Government	**331,579,326**	**0**	**1,284,460**	**13,661,575**	**14,946,035**	**46**	**346,525,361**
Health and Human Services:							
Office of the Secretary	89,806,803	0	(5,100,000)	(12,495,000)	(17,595,000)	(30)	72,211,803
Aging Division	29,792,117	0	0	250,000	250,000	0	30,042,117
Child Development	305,441,553	0	43,900,000	(48,500,000)	(4,600,000)	68	300,841,553
Public Health	131,979,059	0	(4,129,871)	800,000	(3,329,871)	4	128,649,188
Blind Services	17,455,155	0	225,000	578,750	803,750	5	18,258,905
Vocational Rehabilitation	38,256,403	0	1,043,872	4,315,000	5,358,872	(48)	43,615,075

General Fund Appropriations
Fiscal Year 2000-01
2000 Session

	2000-01 Certified Budget	Transfers	Recurring Changes	Nonrecurring Changes	Net Changes	Net Position Changes	Revised Appropriation
Mental Health	607,658,021	0	14,950,000	7,808,474	22,758,474	75	630,416,495
NC Health Choice	25,509,475	0	0	0	0	0	25,509,475
Schools for the Deaf and Hard of Hearing	31,989,549	0	220,000	1,031,250	1,251,250	0	33,240,799
Facility Services	11,198,856	0	1,149,000	500,000	1,649,000	6	12,847,856
Social Services	185,459,375	0	4,450,000	1,000,000	5,450,000	14	190,909,375
Medical Assistance	1,539,549,270	0	(37,800,129)	(69,576,000)	(107,176,129)	6	1,432,373,141
Total Health and Human Services	**3,014,095,636**	**0**	**19,107,672**	**(114,287,526)**	**(95,179,854)**	**100**	**2,918,915,782**
Justice and Public Safety:							
Correction	889,943,525	0	(6,473,340)	(7,212,602)	(13,685,942)	(42)	876,257,583
Crime Control & Public Safety	36,267,844	(338,000)	(230,000)	0	(568,000)	0	35,699,844
Judicial Department	347,361,291	0	8,753,781	5,535,291	14,289,072	100	361,650,363
Juvenile Justice	140,018,378	1,063,000	2,440,748	(2,537,022)	966,726	44	140,985,104
Justice	72,575,950	(225,000)	254,221	(267,537)	(238,316)	5	72,337,634
Total Justice and Public Safety	**1,486,166,988**	**500,000**	**4,745,410**	**(4,481,870)**	**763,540**	**107**	**1,486,930,528**
Natural And Economic Resources:							
Agriculture and Consumer Services	54,146,601	0	(159,698)	2,336,316	2,176,618	(4)	56,323,219
Commerce	43,745,365	0	(103,000)	2,985,671	2,882,671	0	46,628,036
Commerce - State Aid	17,096,251	0	0	7,350,000	7,350,000	0	24,446,251
Commerce - Information Technology Services	0	0	0	0	0	0	0
Labor	16,369,251	0	(300,000)	0	(300,000)	0	16,069,251
NC Housing Finance Agency	5,300,000	0	0	3,000,000	3,000,000	0	8,300,000
Environment and Natural Resources	157,700,273	0	(2,245,030)	575,000	(1,670,030)	(30)	156,030,243
Total Natural and Economic Resources	**294,357,741**	**0**	**(2,807,728)**	**16,246,987**	**13,439,259**	**(34)**	**307,797,000**
Transportation	15,434,165	0	0	0	0		15,434,165
Debt Service:							
Interest / Redemption	290,709,550	0	0	(52,200,000)	(52,200,000)		238,509,550
Federal Reimbursement	1,155,948	0	0	0	0		1,155,948
Total Debt	291,865,498	0	0	(52,200,000)	(52,200,000)		239,665,498
Reserves and Transfers:							
Contingency and Emergency	1,125,000	0	0	0	0		1,125,000
Premium Reserve (Retirees)	0	0	0	(50,000,000)	(50,000,000)		(50,000,000)

General Fund Appropriations
Fiscal Year 2000-01
2000 Session

	2000-01 Certified Budget	Transfers	Recurring Changes	Nonrecurring Changes	Net Changes	Net Position Changes	Revised Appropriation
Death Benefit Adjustment	0	0	0	(10,864,400)	(10,864,400)		(10,864,400)
Premium Reserve (Employees)	147,000,000	0	(32,700,000)	0	(32,700,000)		114,300,000
Welfare Reform	412,503	0	0	0	0		412,503
Mail Service Consolidation Savings	(1,500,000)	0	0	0	0		(1,500,000)
Salary Increases of SPA Employees	63,627,578	0	0	0	0		63,627,578
Salary Increases for Employees	397,600,000	0	456,750,000	0	456,750,000		854,350,000
Compensation Bonus				83,500,000	83,500,000		83,500,000
Salary Adjustment Fund	4,444,303	0	0	0	0		4,444,303
SPA Minimum Salary	100,000	0	0	0	0		100,000
Judicial Retirement Rate Adjustment	(900,000)	0	0	0	0		(900,000)
Statewide Reserve for Salary Increases	0	0	(11,000,000)	0	(11,000,000)		(11,000,000)
State Employee Reserve	0		48,000,000	0	48,000,000		48,000,000
Retirement Rate Adjustment			(191,294,000)	0	(191,294,000)		(191,294,000)
Savings - Positions Vacated by Retirement	(12,709,439)	0	0	0	0		(12,709,439)
Total Reserves and Transfers	**599,199,945**	**0**	**269,756,000**	**22,635,600**	**292,391,600**		**891,591,545**
Total General Fund for Operations	**13,558,096,467**	**0**	**336,121,942**	**(109,325,649)**	**226,796,293**	**496**	**13,784,892,760**
Other General Fund Expenditures:							
Capital Improvements	0	0	0	14,974,172	14,974,172		14,974,172
Repairs and Renovations	0	0	0	100,000,000	100,000,000		100,000,000
Clean Water Trust Fund	0	0	0	30,000,000	30,000,000		30,000,000
Savings Reserve Account	0	0	0	120,000,000	120,000,000		120,000,000
Total Other General Fund Expenditures	**0**	**0**	**0**	**264,974,172**	**264,974,172**		**264,974,172**
Total General Fund Budget	**13,558,096,467**	**0**	**336,121,942**	**155,648,523**	**491,770,465**	**496**	**14,049,866,932**

Section F: Education

Section F: Education

Public Education

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	$5,277,518,248

Budget Changes

Excellent Schools Act

1 Increase Teacher Salaries $7,817,926 R

Implement the fourth year of the teacher salary schedule called for in the Excellent Schools Act. $222,730,457 in recurring funds are included in the Reserve for Compensation increases for this purpose. (HB 1840, Sec. 8.10)

2 Teacher Longevity: 2000-2001 Salary Increases $12,500,000 R

Appropriate funds for teacher longevity increases associated with the FY 2000-01 salary increases that are part of the Excellent Schools Act

Improving Student Success

3 Teacher Longevity: Increase in Rates $8,000,000 R

Funding to increase the longevity payments for teachers to the same rates as other state employees. Changes in rates are:

10-14 years: 1% to 1.5%
15-19 years: 1.5% to 2.25%
20-24 years: 2% to 3.25%
25+ years: remains at 4.5%

(HB 1840, Sec. 8.10)

4 Improving Student Accountability $5,000,000 NR

a) Appropriate $8 million to local school systems to improve student performance in grades 3-12. Funds are allocated to local school systems based on the numbers of students scoring at Levels I and II on the end of grade tests. (HB 1840, Sec. 8)

b) Increase School Technology Funds $5 million. Funding is for increased technology needs to assist students in achieving computing competency.

5 Limited English Proficiency $3,700,000 R

Appropriates additional funds for serving students with limited proficiency in English. This brings total funding for this purpose to $17,066,386 for FY 2000-01 (prior to adjustments for legislated salary increases). (HB 1840, Sec. 8.3)

6 Small County Supplemental Funding $5,000,000 R

Includes additional funding for two additional counties (Ashe and Hertford) which become eligible, and adds funds to increase the formula.
(HB 1840, Sec. 8.25).

7 Exceptional Children $5,000,000 R

Expansion funding increases the per child supplemental amount from $2,517.74 to $2,549.73 per pupil. The amount was $2,488.83 in 1999-00. (HB 1840, Sec. 8.2)

8 Low Wealth Supplemental Funding $5,000,000 R

Provide additional Low Wealth Supplemental Funding. (HB 1840, Sec. 8.15)

9 School Breakfast Program $1,600,000 R

Funds to annualize free breakfast for kindergarten students begun in January, 2000.

10 School Leadership Pilot

Funds to the State Board of Education for the school leadership pilot project. The four school districts receiving the funds will participate in the nationwide program of the Center for Leadership in School Reform.(HB 1840, Sec. 8.19) $240,000 NR

11 Central Office Administration $3,355,175 R

Provides funding to assure that all local school districts receive the funds calculated by the State Board of Education formula for this category.(HB 1840, Sec. 8.17)

12 Average Daily Membership Contingency Reserve $500,000 NR

Provide additional funds and authority to address transitional year funding for local school districts with new or rapidly growing charter schools.(HB 1840, Sec. 8.7)

13 North Carolina Network Funds $100,000 R

Additional funds to the State Board of Education for the North Carolina Network to provide training for school-based management teams, and to improve the management capacity of local school administrative units.

14 Teacher Cadet Program $50,000 R

Provides additional funds for the North Carolina Teacher Cadet Program.

Various Budget Adjustments

15 Transportation: Increased Fuel Costs $7,000,000 NR

Funds to adjust for recent increases in fuel costs experienced by school bus operations.

16 Average Annual Salary Adjustment ($42,363,546) R

Annual adjustment of average budgeted salary of certified personnel to reflect actual experience through December, 1999.

17 Additional Adjustments in Average Salary Projections Further analysis of the certified payroll data by the Department of Public Instruction determined that more current certification data produced an additional change in average projected salaries for fiscal year 2000-01.	($10,032,012)	R
18 Substitute Teacher Pay Revision of cost estimates to meet increased salary requirements.	($440,000)	R
19 Revise Average Daily Membership Revise the projected increase for 2000-01 school year downward by 972 students. The revised budget continues to provide for an increase of 19,686 more students in 2000-01.	($6,887,360)	R
20 Revise Headcount of Exceptional Children Adjust continuation budget to reflect actual April 1, 2000 headcount of exceptional children.	($2,104,833)	R
21 Employee Benefits Program Revisions Worker's compensation, short-term disability, and annual leave requirements are adjusted to reflect recent experience.	($1,265,742)	R
22 Teaching Fellows Program Reduce funding for the Teaching Fellows Scholarship Loan Program Fund to use the fund balance. The reduction will not affect the number of scholarships available.	($2,500,000)	NR
23 Prospective Teacher Scholarship Loan Program Reduce funding for the Prospective Teacher Scholarship Loan Program Fund to use the fund balance. The reduction will not affect the number of scholarships available. (HB 1840, Sec. 8.26)	($750,000)	NR
24 Payments for Vacation Days Adjust funding to reflect recent expenditure experience.	($5,000,000)	R
25 School Bus Purchases Adjust recurring funding for school buses based on projected schedule for replacements.	($6,000,000) $6,000,000	R NR
Budget Changes	($21,970,392)	R
	$15,490,000	NR
Total Position Changes		
Revised Total Budget	$5,271,037,856	

UNC System

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$1,656,863,227**

Budget Changes

26 Reserves for New Facilities ($1,210,190) NR

A one-time reduction in operating costs for new facilities due to construction delays.

27 Regular Term Enrollment $21,081,793 R

Funds the additional projected enrollment cost for regular term university system enrollment. 201.00

28 Off-Campus Enrollment Increase $10,000,000 R

Funds 70% of the Board of Governor's requested enrollment increase for off-campus programs.(HB 1840, Sec. 10.4) 80.00

29 Tuition Receipts ($3,345,338) R

Additional tuition receipts due to the across-the-board inflationary increase adopted by the UNC Board of Governors for all campuses.

30 Need-Based Financial Aid $5,000,000 R

Creates a new need-based financial aid program in addition to the other forms of financial aid:

New Financial Aid:

*Campus specific financial aid:	$5,611,340
*System Need-based Financial Aid :	$5,000,000
*Enrollment-based Financial Aid:	$ 46,000
*In-kind financial aid by funding off-campus programs to allow students to remain at home while taking courses	$10,000,000
TOTAL:	$20,657,340
Less:	
-Campus-specific tuition	$5,611,340
-Enrollment financial aid	$ 46,000
-Off-campus enrollment	$10,000,000
NET GENERAL FUND APPROPRIATION: (HB 1840, Sec. 10.1)	$ 5,000,000

31 Model Teacher Consortium $800,000 R
$500,000 NR

Funds to restore the Model Teacher Consortium program to those 21 local education agencies (LEA's) that were part of that program in 1998-99 and to add eight additional ones. (HB 1840, Sec.10.7)

32 Aid to Students Attending Private Colleges — $3,257,457 R

Increases the Legislative Tuition Grant (LTG) program by $50 per student bringing it to a total of $1,800. Also increases the State Contractual Scholarship Fund (SCSF) by $50 for each FTE student bringing the total to $1,100.(HB 1840, Sec. 10.3)

33 Transfer Center for Prevention of School Violence — ($500,000) R

Transfers the Center for the Prevention of School Violence from the University system to the Office of Juvenile Justice in accordance with the recommendation of the Governor. -7.00

34 Achievement Gap Funds — $500,000 NR

Funds to support the Historically Minority College and University Initiative to Close the Achievement Gap.

35 ECU Doctoral Status Funds — $1,500,000 R

Provides the next phase of funding for East Carolina University in its transition to a Doctoral II institution.

36 PT-CAM — $250,000 NR

Funds the PT-CAM regional workforce training program in the Piedmont Triad area of the state.

37 Chinqua-Penn Plantation — $100,000 NR

Accepts the Governor's recommendation on a non-recurring basis to provide funds for the Board of Governors to allocate to NC State for the operation of the Chinqua-Penn Plantation.

38 Matching Funds for NC A&T State — $1,222,208 R

Provides matching funds for Federal dollars for NC A&T State University's Agriculture Research and Cooperative Extension Programs.

39 Education Cabinet Funds — $500,000 NR

Funds professional staff and support for the Education Cabinet.

40 Institute for Outdoor Drama — $60,000 R

Provides funds for the Institute for Outdoor Drama.

41 Blue Crab Research — $500,000 R

Provides funds to the Sea Grant program for blue crab research.

42 NCSU Poultry Research Position Funds — $150,000 R

Provides funds to NCSU to add three additional poultry research positions. 3.00

43 Teacher Academy Funds — $250,000 R

Provides additional funds for the Teacher Academy.

44	**NC Center for the Advancement of Teaching** Provides additional funds for the NC Center for the Advancement of Teaching.	$250,000	R
45	**Institute for International Understanding** Provides additional funds for the Institute for International Understanding.	$218,573	R
46	**Program on Southern Politics, Media and Public Life** Funding to support this program at UNC-CH.	$225,000	R
	Budget Changes	$40,669,693	R
		$639,810	NR
	Total Position Changes	277.00	
	Revised Total Budget	$1,698,172,730	

Community Colleges

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	$591,015,693

Budget Changes

A. Community Colleges System Office

47 Salary Adjustment Funds $225,000 R

Provide funds for position reclassifications and range revisions approved by the State Personnel Commission and in-range equity adjustments approved by the President of the Community College System.

B. State Aid - Community College Institutions

48 Enrollment Adjustment $22,280,910 R

Provide funds for community college enrollment growth in accordance with the enrollment funding formula ($20,480,910). Also provide funds to hold harmless from enrollment declines those community colleges in eastern North Carolina counties hardest hit by Hurricane Floyd that experienced a total FTE loss of greater than 20 under the enrollment funding formula ($1,800,000). Colleges will be held harmless for the 2000-01 fiscal year only. Enrollment funding for subsequent fiscal years shall be determined using the continuing budget concept pursuant to Section 10.4(b) of S.L. 1998-212.

49 Supplement for Summer Term Curriculum Instruction $7,177,623 R

Provide funds for summer term curriculum instruction as a supplement to curriculum enrollment funding for the regular academic year. These funds shall be a separate line item in state aid fund code 1600 and shall not be included in the continuing budget concept for earned FTE enrollment funding. (HB 1840, Section 9.9).

50 Occupational Continuing Education $3,000,000 R

Increase funds for occupational extension and continuing education programs by adjusting the funding rate per full-time equivalent student in a continued effort to more closely align funding of continuing education programs with that of curriculum programs.

51 Reduce New and Expanding Industry Training Funds ($500,000) NR

Reduce the appropriation for the New and Expanding Industry Training (NEIT) program for one year from $6,028,541 to $5,528,541. In addition to the program's general fund appropriation, funds are provided for the 2000-01 fiscal year through the Employment Security Commission Training and Employment Account.

52 Reduce Educational Equipment Funds ($1,000,000) R
($1,020,225) NR

Reduce the appropriation for educational equipment from $17,319,732 to $15,299,507. In addition to the general fund equipment appropriation, funds are provided for the 2000-01 fiscal year through the Employment Security Commission Training and Employment Account.

C. Tuition and Fees

53 Adjustment for Over-realized Receipts ($2,800,000) R
($2,000,000) NR

Increase the budgeted amount of tuition and registration fees for the 2000-01 fiscal year to more accurately reflect anticipated receipts and to offset the impact of FTE enrollment declines due to Hurricane Floyd. This reduction also includes a one-time adjustment for over-realized receipts collected in the 1999-2000 fiscal year. (HB 1840, Section 9.4).

54 Increase Curriculum Tuition Charge ($2,035,908) R

Increase the in-state tuition charge per semester hour by $0.75, from $26.75 to $27.50. It is anticipated that for most students, this increase will be off-set by federal and state financial assistance programs.

55 Increase Semester Hours for Which Tuition is Charged ($2,010,798) R

Increase the maximum number of semester hours for which tuition is charged from 14 semester hours to 16 semester hours. It is anticipated that for most students, this increase will be off-set by federal and state financial assistance programs.

D. Reserves and Other Funds

56 Eliminate Scholarship Reserve Fund Balance ($410,000) NR

Eliminate the fund balance remaining in the Community College Scholarship Reserve. This fund balance is derived from accured interest earnings on the $4 million scholarship reserve principal eliminated by the General Assembly in 1999.

57 Reduce State Board Reserve ($100,000) NR

Reduce the appropriation to the State Board Reserve for one year from $1,150,000 to $1,050,000.

58 Reduce Need-Based Financial Aid Fund Balance ($1,000,000) NR

Reduce the fund balance in the reserve for need-based financial aid to retrieve unused funds from the $5 million appropriation for the 1999-2000 fiscal year.

59 Reduce Management Information System (MIS) Fund Balance ($2,000,000) NR

Reduce the fund balance in the reserve for development of a management information system (MIS) to retrieve unused funds from the $8 million appropriation for the 1999-2000 fiscal year.

Budget Changes	$24,836,827	R
	($7,030,225)	NR
Total Position Changes		
Revised Total Budget	$608,822,295	

Section G: Health and Human Services

Section G: Health and Human Services

Health and Human Services

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	$3,014,095,636

Budget Changes		
(1.0) Division of Mental Health		
1 Reduce Operating Reserve Reduces the operating reserve (on a non-recurring basis) for a new neurobehavioral unit to be created within the Black Mountain Center. Allows the unit to open during FY01/02.	($571,526)	NR
(2.0) Division of Social Services		
2 Reduce Excess Adoption Assistance Funds Reduces excess adoption assistance funds and allows for the enhancement of adoptions activities.	($2,300,000)	R
(3.0) Division of Medical Assistance		
3 Transfer Medicaid Reserve Funds Transfers funds from G.S. 143-23.2 reserve to support current services and to reduce appropriations.	($70,000,000)	NR
4 Adjust Medicaid Funding Reduces appropriations to reflect current projections for the Medicaid Program.	($32,388,631)	R
5 Reduce Administrative Funding Reduces program funding to support positions required by federal and state mandates.	($127,000)	R
6 Increase Medicaid Drug Rebate Receipts Increases receipts from the Drug Rebate Program to reflect increased expenditures for prescription drugs.	($12,146,498)	R
(4.0) Office of the Secretary		
7 Eliminate Position Eliminates the Health Care Access Coordinator position funded with TANF block grant funds.	$0 -1.00	R
8 Increase Receipts Reduces appropriations in anticipation of increased receipts for prior year earned revenue.	($13,120,000)	NR
9 Increase Receipts Reduces appropriations in anticipation of increased receipts across the department.	($3,000,000)	R

10 Eliminate 29 Vacant Positions ($2,100,000) R
Eliminates 29 vacant positions across the department except for specific state institutions. -29.00

(5.0) Division of Child Development

11 Reduce Smart Start Funds ($49,000,000) NR
Provides a one-time reduction in Smart Start funding due to lower than anticipated program expenditures.

(6.0) Division of Vocational Rehabilitation

12 Eliminate Operating Reserve for TBI Unit ($956,328) R
Eliminates the operating reserve for the Traumatic Brain Injury (TBI) Unit in Goldsboro since the required capital funding was re-directed to support the Hurricane Floyd recovery effort. -48.00

(7.0) Division of Public Health

13 Reduce Funding to Family Planning ($45,000) R
Reduces appropriations for family planning services to provide the state match for a Medicaid waiver for the provision of family planning services. ($125,000) NR

14 Reduce Funding to Forensic Test for Alcohol Pgm. ($964,871) R
Reduces appropriations and allows the fees collected to be budgeted to support the functions in the Forensic Test for Alcohol Program.

15 Reduce Funding to Public Health Laboratory ($220,000) R
Decreases appropriations by the amount of increased Medicaid receipts to offset the cost of Laboratory operations.

16 Reduce Funding to AIDS Drug Assistance Program ($2,000,000) R
Decreases appropriations for the AIDS Drug Assistance Program by $2,000,000 due to increased federal funds. Also, decreases appropriations by $3,000,000 due to under-utilization of the program. ($3,000,000) NR

17 Reduce Funding to Developmental Evaluation Centers ($1,000,000) R
Reduces appropriations to the Developmental Evaluation Centers due to increased Medicaid receipts.

18 Reduce Funding to Medical Examiner's Office ($100,000) R
Reduces appropriations by the amount of the increase in Medical Examiner's Fees in 1999.

(8.0) Division of Mental Health

19 Services for Violent and Assaultive Childre. $4,353,000 NR
Provides funds to continue current mental health service levels for violent and assaultive children.

20 Early Intervention System Pilots $250,000 NR

Provides additional funds to support the integrated client database and regional transdisciplinary team pilots for young children receiving early intervention services.

21 Mental Health System Reform Reserve $3,000,000 NR

Establishes a Mental Health System Reform Reserve in order to comply with the Olmstead Supreme Court decision regarding de-institutionalization of individuals with mental health disabilities. Also, provides funds for the anticipated reform of the public mental health system.

22 Housing Support for the Mentally Ill $301,000 NR

Provides matching funds to draw down federal funds for the support of an additional 38 housing placements for the mentally ill.

23 Funds for Autistic Adults $250,000 R

Provides funds to the N.C. Autism Society for additional services to adults with autism.

24 Substance Abuse Services Positions $0 R

Adds four (4) positions to the Substance Abuse Services Section to support the (1) Employee Assistance Program, (2) Offender Management Program, (3) Quality assurance services for DWI offenders, and (4) Development of housing and other 24-hour services. The positions are offset by the Substance Abuse Prevention and Treatment Block Grant. 4.00

25 Community Mental Health Programs $4,000,000 R

Provides funds for area mental health programs as follows:

Substance Abuse Services	$2,000,000
Developmental Disabilities	$2,000,000

26 Child Residential Treatment/Services Program $8,000,000 R

Establishes a child mental health residential treatment/services program in order to provide appropriate residential treatment alternatives for children at risk of institutionalization or other out-of-home placement. Also, provides for the creation of six (6) new positions: Division of Mental Health, Developmental Disabilities & Substance Abuse Services 3.0; Controller's Office 1.0 and Division of Social Services 2.0. 6.00

27 Atypical Antipsychotic Medications $1,500,000 R

Provides additional funds for atypical antipsychotic medications as follows:

(1) State DHHS facilities	$750,000
(2) Area mental health programs	$750,000

28 Autistic Child & Adolescent Units at Murdoch $1,200,000 R

Provides start up and operational funds to establish residential services for autistic children and adolescents within and on the grounds of the Murdoch Mental Retardation Center located at Butner. $326,000 NR
65.00

29 Area Mental Health Board Training

Provides funds to train area mental health programs' board members. (This appropriation was included in HB 168 during the 1999 Session but was diverted for flood relief.) $150,000 NR

(9.0) Division of Social Services

30 Special Children Adoption Incentives Fund $500,000 R

Establishes a fund to provide financial incentives for foster care families desiring to adopt special needs children residing in their care.

31 State/County Special Assistance $4,450,000 R

Increases monthly State/County Special Assistance payment from $982 to $1,062. Effective October 1, 2000.

32 Food Banks

Provides funds to be equally distributed to the regional network of food banks in North Carolina. $1,000,000 NR

33 Foster Care Independent Living Matching Funds $500,000 R

Provides the match for federal Independent Living Program funds in order to prepare children for the transition from foster care to independence. Also, provides for the addition of one position to coordinate the program. 1.00

34 Special Children Adoption Fund $1,100,000 R

Increases the Special Children Adoption Fund which provides financial incentives to local departments of social services and private non-profit adoption placement programs for the placement of children in foster care. Also, provides post-adoption support funds to ensure placements are successful.

35 Administrative Support $0 R

Provides for the addition of ten (10) positions within the Division of Social Services to enhance and support the Work First Program; coordinate expanded after school programs for at-risk children; and child welfare training. These positions are totally offset with TANF block grant funds. 10.00

36 Adoptions Program $200,000 R

Provides additional staff and related funds to address the backlog in processing adoptions information. 3.00

(10.0) Division of Public Health

37 Prevention of Birth Defects $150,000 NR

Provides funding for education and awareness activities on the importance of folate consumption preceding pregnancy to effectively prevent neural tube birth defects and infant mortality.

38 Office of Minority Health $200,000 NR

Provides funding to support mini-grants for coalition-building at the local level. Provides funding for minority infant mortality reduction efforts.

39 Healthy Carolinians $1,000,000 NR

Provides funding for Healthy Carolinians' task forces throughout the state.

40 Osteoporosis Task Force $150,000 NR

Provides funding to continue support for the Osteoporosis Task Force.

41 Heart Disease and Stroke Prevention $100,000 NR

Provides funding to the Heart Disease and Stroke Prevention Task Force for implementation of the NC Plan to Prevent Heart Disease and Stroke.

42 Arthritis Prevention Project $25,000 NR

Provides grant-in-aid for a private, local project providing services for arthritis patients in Mecklenburg County.

43 Alice Aycock Poe Center for Health Education $200,000 NR

Provides grant-in-aid to the Alice Aycock Poe Center for Health Education.

44 Prescription Drug Assistance Program $500,000 NR

Provides increased funding for the Prescription Drug Assistance Program for persons over age 65.

45 Healthy Start Foundation $1,000,000 NR

Funds the statewide public information and education activities of the First Step campaign. Provides mini-grants for local communities to implement pilot programs aimed at reducing infant mortality.

46 Birth Defects Monitoring Program $200,000 R

Provides funding to initiate the development of a birth defects registry. 4.00

47 Hepatitis C Education Awareness $150,000 NR

Provides funding for Hepatitis C education and awareness activities.

48 Asthma Education $250,000 NR

Provides funding to support asthma management, control, surveillance, and education.

49 State Games $200,000 NR

Supports the State Games of North Carolina to promote health and fitness.

(11.0) Division of Child Development

50 T.E.A.C.H. Program $400,000 R

Provides funding to expand the Teacher Education and Compensation Helps (T.E.A.C.H.) Program which assists child care teachers in pursuing higher education in the field of early childhood.

51 Smart Start Program $43,500,000 R
$500,000 NR

Provides additional funding for direct services statewide, state-level administration, program evaluation, and county collaboration efforts.

52 Child Care Subsidy Program $0 R

Authorizes 68 positions in recognition of the significantly increased demand on licensing and monitoring staff due to the growth in regulated child care centers/homes and the implementation of the rated license system. These positions are funded with federal Child Care and Development Fund quality set-aside funding. 68.00

(12.0) Div. of Serv. for Deaf/Hard of Hearing

53 Individual Education Plan (IEP) Services $600,000 NR

Provides additional funding for contractual services required by students' IEPs at the residential schools for the deaf.

54 Teacher Mentor Pay $56,250 NR

Provides funding to compensate experienced teachers at the schools for the deaf who serve as mentors for new teachers.

55 Day Student Transportation $375,000 NR

Provides funding for transporting deaf and hard of hearing day students to programs at the Division's three residential campuses.

56 Family Support Services $220,000 R

Expands support services to families with deaf and hard of hearing children as a result of increased demand from the newborn hearing screening program.

(13.0) Division of Services for the Blind

57 Individual Education Plan (IEP) Services $200,000 NR

Provides additional funding for contractual services required by students' IEPs at the Governor Morehead School.

58 Teacher Mentor Pay $18,750 NR

Provides funding to compensate experienced teachers at the Governor Morehead School who serve as mentors for new teachers.

59 Services for Deaf/Blind Children $225,000
Provides funding to establish a specialized program for deaf/blind children at the Governor Morehead School, including expansion of NC Central University's master's degree program in visual impairment to include intervenor training. 5.00

60 Vocational Rehabilitation Case Services Funds
Provides additional funds to offset the increased tuition costs for visually-impaired vocational rehabilitation clients attending in-state universities. $235,000 NR

61 Day Student Transportation
Provides funding for transporting visually-impaired day students to programs at the Governor Morehead School campus. $125,000 NR

(14.0) Division of Vocational Rehabilitation

62 Client Information System
Completes development and implementation of an automated client information system. $1,700,000 NR

63 Case Services Funds
Provides additional funds to offset the increased tuition costs of clients attending in-state universities. $615,000 NR

64 Independent Living Rehabilitation Program $2,000,000 R
Provides additional funding to address client needs statewide and continue technical assistance to the housing industry on design requirements for multifamily housing for disabled individuals. $2,000,000 NR

(15.0) Division of Medical Assistance

65 Family Planning Waiver $45,000 R
Provides funding for the state match for a Medicaid waiver to provide Medicaid coverage for family planning services to men and women of child bearing ages with family incomes equal to or less than 185% of the federal poverty level. Effective January 1, 2001. $424,000 NR
2.00

66 Medicaid Positions $127,000 R
Provides funding to support three positions to meet federal HIPAA requirements and one position to meet increased demands from provider enrollment. 4.00

67 Additional CAP-MR/DD Slots $6,890,000 R
Funds 600 CAP-MR/DD slots in the Medicaid Program.

(16.0) Office of the Secretary

68 Child Advocacy Institute
Provides funding for the continuation of the Child Advocacy Institute's activities to collect and publish the annual report on the status of children in North Carolina. $250,000 NR

69	**North Carolina Council on the Holocaust** Provides funds for Holocaust education in the public schools.	$50,000	NR
70	**Latin American Resource Center** Provides grant-in-aid to the Latin American Resource Center (LARC) for administration and outreach operations relative to its programs, including DIALOGO.	$75,000	NR
71	**"Closing the Achievement Gap" Pilot Program** Provides funds to establish a pilot program to assist children and families in order to enhance school performance and family functioning.	$250,000	NR
(17.0)	**Division of Facility Services**		
72	**Statewide Poison Control Center** Provides funding for the Statewide Poison Control Center at Carolinas Medical Center.	$1,000,000	R
73	**Adult Care Home Inspectors** Provides additional inspectors to implement requirements of Senate Bill 10.	$149,000 6.00	R
74	**Nurse Aide Online Training** Provides funding for the State Board of Community Colleges for the development and implementation of on-site internet training or other innovative training programs designed to improve recruitment and reduce turnover of certified nursing assistants in nursing facilities.	$500,000	NR
(18.0)	**Division of Aging**		
75	**Adult Day Care Start-up Grants** Provides funding for up to 10 start-up grants for new Adult Day Care Programs.	$250,000	NR
Budget Changes		$19,107,672 ($114,287,526)	R NR
Total Position Changes		100.00	
Revised Total Budget		$2,918,915,782	

Section H: Natural and Economic Resources

69 North Carolina Council on the Holocaust
Provides funds for Holocaust education in the public schools. $50,000 R

75 Latin American Resource Center
Provides grant-in-aid to the Latin American Resource Center (LARC) for administration and outreach operations relative to its programs, including DIALOGO. $75,000 R

71 "Closing the Achievement Gap" Pilot Program
Provides funds to establish a pilot program to assist children and families in order to enhance school performance and family functioning. $250,000 R

(17.5) Division of Facility Services

72 Statewide Police Control Center $1,000,000 R
Provides funding for the Statewide Prison Control Center at Caledonia Medical Center.

73 Adult Care Home Inspectors $149,000 R
Provides additional inspectors to implement requirements of Senate Bill 38. 8.00

74 Nurse Aide Centers Training
Provides funding for the State Board of Community Colleges for the development and implementation of on-site internet training or other innovative training programs designed to improve recruitment and reduce turnover of certified nursing assistants in nursing facilities. $500,000 R

(18.6) Division of Aging

75 Adult Day Care Start-up Grants
Provides funding for up to 10 start-up grants for new Adult Day Care Programs. $250,000 R

Budget Changes $19,507,872 R
($114,267,338) R

Total Position Changes (90.5)

Revised Total Budget $2,919,915,782

Housing Finance Agency

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$5,300,000**

Budget Changes		
Housing Finance Agency		
1 Housing Trust Fund		
Provides $3 million in General Fund money to the Housing Finance Agency for the Housing Trust Fund. Also transfers $2 million from the Stripper Well Special Reserve for Oil Overcharge Funds. [Section 14.2(b)].	$3,000,000	NR
2000-2001 Requirements: $5,000,000 Receipts: ($2,000,000) Appropriation: $3,000,000		
Budget Changes	$3,000,000	NR
Total Position Changes		
Revised Total Budget	**$8,300,000**	

Agriculture and Consumer Services

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$54,146,601**

Budget Changes		
Commissioner's Office		
2 Farmland Preservation Trust Fund	$1,713,693	NR
Provides funds for the Farmland Preservation Trust Fund for the acquisition of permanent agricultural conservation easements to protect rural lands, particularly in the vicinities of urban growth areas and near waterways and other environmentally sensitive areas. Of these funds, $200,000 is transferred to the Center for Geographic Information and Analysis (CGIA) for mapping and operational support associated with the Trust Fund.		
3 Local Agricultural Fairs - Grant Funds	$100,000	NR
Provides funds for local agricultural fairs.		
Markets		
4 Specialty Foods Marketing	$300,000	NR
Provides funds to promote the specialty foods business through trade shows, retail promotions, print materials, and development of an e-commerce web site.		
Plant Industry		
5 Gypsy Moth Control Funds	$122,623	NR
Provides funds to supplement federal funds for the department's program to control the spread of the gypsy moth.		
Reserves and Transfers		
6 Turfgrass Research	$100,000	NR
Transfers funds to the Board of Governors of the University of North Carolina for allocation to the Agricultural Research Service at North Carolina State University to conduct turfgrass research projects.		
Structural Pest Control		
7 Eliminate Positions	($159,698)	R
Eliminates one supervisor and three structural pest inspector positions and associated operating support.	-4.00	

Budget Changes	($159,698)	R
	$2,336,316	NR
Total Position Changes	-4.00	
Revised Total Budget	$56,323,219	

Labor

GENERAL FUND

	FY 00-01	
Total Budget Approved 1999 Session	**$16,369,251**	
Budget Changes		
Department Wide		
8 **Indirect Cost Receipts**	($300,000)	R
Directs the department to budget over-realized indirect cost receipts and reduce General Fund appropriations by an equal amount.		
Budget Changes	**($300,000)**	**R**
Total Position Changes		
Revised Total Budget	**$16,069,251**	

Environment and Natural Resources

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	$157,700,273

Budget Changes

(2.00) Aquariums

9 Operating Reserve Reduction ($1,569,337) R

Reduces operating reserve for the Pine Knoll Shores Aquarium due to reversion of capital funds to the Hurricane Floyd Reserve Fund. Also reduces operating reserve for the Fort Fisher Aquarium due to construction delay. -25.00

(2.00) Forest Resources

10 Reduce Operating Support ($475,693) R

Reduces various operating and equipment line items, including computers, software, and trucks.

(2.00) Marine Fisheries

11 Information Technology Funds

Provides funds from commercial fishing license fees for maintenance costs associated with the Fisheries Information Network (FIN) system. Receipts for information technology initiatives are to be capped at $750,000.

	FY 2000-2001
Requirements:	$750,000
Receipts:	($750,000)
Appropriation:	0

(2.00) Museum of Natural Sciences

12 Grassroots Science Program $250,000 NR

Provides additional funds for the Grassroots Science Program (Section 13).

(2.00) Office of Environmental Education

13 Environmental Education Grant Funds $200,000 NR

Provides grant funds to public schools K-12, public libraries and environmental education centers to purchase environmental education materials and to support school group field trips to environmental education centers (Section 13.1).

(2.00) Parks and Recreation

14 Parks and Recreation Operating Reserve

Defers increase in the division's continuation budget operating reserve for capital projects due to construction delays. ($100,000) NR

(3.00) Air Quality

15 Increase Budgeted Receipts ($200,000) R

Increase the budgeted amount of program receipts and reduce the division's general fund appropriation by an equal amount. This shifts five positions from General Fund to receipt support. -5.00

(3.00) Coastal Management

16 Reduce Grants

Reduces land-use planning grants to local governments for one more year. The moratorium, in place since July 1, 1999, is expected to continue through June 30, 2001. ($100,000) NR

(3.00) Environmental Health

17 Environmental Health Specialists Training

Provides funds for training and continued education to local environmental health specialists to improve the consistency of implementation and enforcement of rules. $100,000 NR

(5.00) Reserves and Special Funds

18 Resource Conservation and Development Councils

Provides each of the state's nine Resource Conservation and Development Councils with a $25,000 grant. $225,000 NR

Budget Changes	**($2,245,030)**	**R**
	$575,000	**NR**
Total Position Changes	**-30.00**	
Revised Total Budget	**$156,030,243**	

Commerce

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$43,745,365**

Budget Changes

Administration

19 Eliminate Fund Balance ($64,329) NR

Eliminates fund balance from department-wide copy office. This centralized office is no longer active.

Business and Industry

20 Industrial Recruitment Competitive Fund $2,000,000 NR

Continues support for the Industrial Recruitment Competitive Fund.

Center for Entrepreneurship and Technology

21 New and Emerging Industries Program ($100,000) R

Reduces funding for the New and Emerging Industries Program by one third.

N.C. Government Competition Commission

22 N.C. Government Competition Commission ($218,000) R

Eliminate funding for the North Carolina Government Competition Commission. The Commission was repealed by Section 18.1 of S.L.1999-395.

Reserves and Transfers

23 Smart Growth, Management & Development Issues $150,000 NR

Continues funds for the Commission to Address Smart Growth, Growth Management, and Development Issues.

24 Regional Economic Development Commissions $350,000 R
$350,000 NR

Increases recurring support for the State's seven regional economic development commissions from $6.075 million to $6.425 million. Also provides a one-time $50,000 increase for FY 2000-2001 for each of the seven commissions (Section 14.8).

25 North Carolina Rural Redevelopment Authority $250,000 NR

Places funds in a reserve for the start-up costs of the Rural Redevelopment Authority. Funds are contingent upon enactment of House Bill 1819, Senate Bill 1516, or substantially similar legislation. Funds are recommended by the Rural Prosperity Task Force (Section 14.7).

Tourism, Film, and Sports Development

26	**Rural Tourism Development Grant Funds** Provides funds for the Rural Tourism Development Grant Program to encourage the development of new tourism projects and activities in the rural areas of the state.	$300,000	NR
27	**Reduce Operating Support** Reduces funding for telephone and postage due to increased use of internet services.	($100,000)	R
28	**Welcome Centers** Reduces budget for supplies and utilities.	($10,000)	R

Workforce Commission

29	**Reduce Salary Reserve** Reduces salary reserve created when a position moved from General Fund to receipt support.	($25,000)	R

Budget Changes	($103,000)	R
Total Position Changes	$2,985,671	NR
Revised Total Budget	$46,628,036	

State Aid to Non-State Entities

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$5,200,000**
Budget Changes	
Grants-In-Aid	
30 Community Development Initiative Provides additional funds for the N.C. Community Development Initiative, Inc. to support operating and program activity grants to mature community development corporations (CDCs). In addition, $1 million is transferred for FY 2000-2001 from the Stripper Well Special Reserve for Oil Overcharge Funds for the Initiative [Section 14.2(c)].	$1,000,000 NR
31 Technological Development Authority Provides funds to the N.C. Technological Development Authority for entrepreneurial support and infrastructure, inclucing creating new business incubators, enhancing existing incubators, developing capital formation initiatives and supporting research commercialization programs (Section 14.11).	$3,500,000 NR
32 World Trade Center North Carolina Provides funds to the World Trade Center North Carolina to support international trade education programs to small and medium-sized businesses (Section 14.12).	$200,000 NR
Budget Changes	**$4,700,000 NR**
Total Position Changes	
Revised Total Budget	**$9,900,000**

N.C. Biotechnology Center

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$7,638,913**

Budget Changes		
N.C. Biotechnology Center		
33 Agricultural Research Funds Provides funds for state universities to conduct research into value-added and customized crops. Funds will also be used to attract and establish agricultural biomanufacturing facilities. Funds are recommended by the Rural Prosperity Task Force.	$1,000,000	NR
Budget Changes	$1,000,000	NR
Total Position Changes		
Revised Total Budget	**$8,638,913**	

Office of Information Technology Services

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$0**

Budget Changes

Office of Information Technology Services

38 **North Carolina Information Network (NCIN)**

Provides funds from available cash balances and anticipated federal e-rate funding to continue the North Carolina Information Network at the same level as FY 1999-2000.

	FY 2000-2001
Requirements:	$3,596,000
Receipts:	($3,596,000)
Appropriation:	0

Budget Changes

Total Position Changes

Revised Total Budget **$0**

Rural Economic Development Center

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$4,257,338**
Budget Changes	
Grant Programs	
34 Capacity Building Assistance Program Provides funds to support the Capacity Building Assistance Program to pay all or a portion of the costs associated for providing technical and financial assistance for water and sewer projects (Section 14.13).	$400,000 NR
35 Supplemental Funding Program Provides funds to support the Supplemental Funding Program for economic development projects, principally water and sewer, in rural areas of the state (Section 14.13).	$400,000 NR
36 Research and Demonstration Grants Program Provides funds to support the Research and Demonstration Grants Program.	$600,000 NR
Reserves	
37 Agricultural Advancement Consortium Places funds in a reserve for expenses associated with the Agricultural Advancement Consortium. The Consortium will facilitate discussion among state experts to develop recommendations regarding ways to improve the State's econonic development through farming and agricultural interests. Funds are recommended by the Rural Prosperity Task Force (Section 14.13).	$250,000 NR
Budget Changes	**$1,650,000 NR**
Total Position Changes	
Revised Total Budget	**$5,907,338**

Section I: Justice and Public Safety

Rural Economic Development Center

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	$4,259,338
Budget Changes	
Grant Programs	
34. Capacity Building Assistance Program Provides funds to support the Capacity Building Assistance Program to pay all or a portion of the costs associated for providing technical and financial assistance for water and sewer projects (Section 14.13).	$400,000 NR
35. Supplemental Funding Program Provides funds to support the Supplemental Funding Program for economic development projects, municipality water and sewer, in rural areas of the state (Section 14.13).	$400,000 NR
36. Research and Demonstration Grants Program Provides funds to support the Research and Demonstration Grants Program.	$600,000 NR
Reserves	
37. Agricultural Advancement Consortium Places funds in a reserve for purposes associated with the Agricultural Advancement Consortium. The Consortium will facilitate discussion among state agents to develop recommendations regarding ways to improve the State's economic development through farming and agricultural interests. Funds are recommended by the Rural Prosperity Task Force (Section 14.13)	$250,000 NR
Budget Changes	
Total Position Changes	
Revised Total Budget	$5,909,338

Judicial

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$347,361,291**

Budget Changes

1 Vacant Superior Court Judgeships The Continuation Budget is adjusted to reflect the expiration of 1 Special Superior Court Judgeship as of December 31, 2000 and the elimination of an additional Special Superior Court Judgeship that will be vacant as of October 1, 2000. These Judgeships were created in 1987 and 1993 respectively. (Sec. 15.8)	($185,240) -2.00	R
2 Increase Indigent Fund Requirements Because spending requirements have been higher than anticipated and available funds limited by the costs of Hurricane Floyd, funding for the Indigent Fund is increased by $200,000.	$200,000	R
3 Positions for Office of Indigent Defense Services Senate Bill 1323 would establish a Commission to oversee spending on Indigent Defense, as of July 1, 2001. During 2000-2001, $375,859 from the Indigent Defense Fund will be used to establish 5 staff positions for this new office; an Executive Director and Administrative Assistant as of November 1, 2000 and a Deputy Director/ Chief Financial Officer, an Information Systems Director and a Research Analyst as of January 1, 2001. Funding for Indigent Defense is increased for 2000-2001 to cover these costs. In addition, $49,480 nonrecurring is provided to fund a change in how longevity would be calculated for Public Defenders and Assistant PDs under SB1323. If neither HB1590 nor SB1323 become law, these funds will remain in the indigent fund for ongoing expenses .	$297,900 $127,439 5.00	R NR
4 Special Counsel for the Mentally Ill Funds will be used from the Indigent Defense Fund to establish 4 new positions in the Special Counsel for the Mentally Ill program. This program represents patients at 3 state mental institutions. The new positions are 3 attorneys and 1 Assistant to Special Counsel/Paralegal at Cherry Hospital. Funding for the Indigent Defense Fund is increased to cover this expense.	$262,415 $16,408 4.00	R NR

5 Court Technology Improvements $4,301,726 R
$3,297,387 NR
29.00

These funds are provided to address critical needs in the area of improving court technology. This item does not preclude AOC using Court Technology or other available funds for similar positions. Funds are to be allocated as follows:

- Implement Magistrate System $1,543,867 R
199,949 NR

This includes positions to staff help desk, maintain LAN and WAN, for training and to continue to maintain and enhance the system. (23 positions)

- Add 2 Technical support/computer operator positions. 100,828 R
12,570 NR

- Funds to Improve Facilities for the Court Management Information Division. 150,000 NR

- Reserve for Disaster Recovery 741,755 R
33,162 NR

Funds may be used to establish positions, contractural services, or equipment based on planning process now underway.

- Equipment Replacement 835,679 R
2,780,242 NR

- Migration Manager Position 116,435 R
7,151 NR

This position will oversee implementation of Gartner Report recommendations.

- Support for Worthless Check programs (1 position) 135,419 R
51,135 NR

- Automated Civil Abstract Program 623,998 R
63,178 NR

To begin automating the civil abstract records in Clerks' Offices.
(2 positions)

- Resources to be allocated to additional support or to redesign of legacy court systems. 203,745 R
0 NR

6 Community Mediation Center Funds — $305,630 R

Provide additional funds to 19 community mediation/dispute settlement centers and $25,000 to the Mediation Network of North Carolina as they take on more responsibility for monitoring individual centers. The following centers will receive expansion funding: Alamance ($8,000),Albemarle ($8,000), Blue Ridge ($10,000), Cabarrus ($11,000), Chatham ($18,000), Cape Fear ($15,000), Moore ($10,000), Duplin ($11,000), Foothills ($12,000), Henderson ($7,500), Asheville ($28,000), Eastern Carolina ($25,000), Southern Piedmont ($15,000), Forsyth ($15,000), Rockingham ($15,000), Orange ($15,000), Piedmont ($24,380), Transylvania ($7,000), and Johnston Co($25,750).

7 Business Court Funds — $44,000 NR

Funding is continued, on a nonrecurring basis, for rent and equipment maintenance expenses for the Business Court located in Greensboro.

8 Increase Funding for Court Interpreters — $250,179 R

The increasing numbers of non-English speaking parties has increased the demand for court interpreters. This item increased continuation budget funding to $458,005.

9 Court Reporters — $75,306 R

Funds are provided to add 2 Court Reporters, effective October 1, 2000. — $11,956 NR, 2.00

10 Worthless Check Programs — $330,816 R

Funds are provided to expand the Worthless Check Program to Cumberland, Nash, Edgecombe, Wilson and Onslow Counties. This brings the total number of counties involved to 12. Each program is staffed by a District Attorney Investigator and a Legal Assistant. (Nash/Edgecombe/Wilson will have a 2nd Legal Assistant position to allow a satellite office). (HB 1840, Sec. 15.3A) — $64,404 NR, 7.00

11 Interpreters for Domestic Violence Cases — $75,889 NR

These funds will allow the AOC to hire interpreters in Domestic Violence Cases in District Court.

12 Non-technology Equipment Replacement — $1,000,000 NR

These funds will allow replacement statewide of office equipment (copiers, microfilming equipment and mailing machines) that are at least 6 years old. The Judicial Branch does not have continuation budget funding for equipment replacement.

13 Courtroom Wiring and Audio Equipment — $211,500 NR

These funds will cover the costs of 75 courtroom recording systems to accommodate District Court and non-jury Superior Court proceedings. New units are needed because of new courtrooms that have been established.

14 Additional Magistrates $380,292 R
$72,098 NR
11.00

Funds are provided to add magistrates in 13 counties; full time magistrates in Alamance, Alexander, Anson, Brunswick, Chatham, Guilford, Hertford, Jackson and Perquimans Counties and half-time positions in McDowell, Mecklenburg, Wake and and Warren Counties. The AOC identified new magistrate positions as a critical need due to increasing caseloads and the difficulties providing 24-hour coverage. (HB 1840, Sec. 15.2)

15 NDAA Membership $48,000 NR

Funds are provided to allow the 39 elected District Attorneys to join the National District Attorneys' Association and for some DAs to attend the national conference.

16 Administrative Office of the Courts Positions $301,413 R
$42,955 NR
6.00

Funds to add 6 new positions to support the Administrative Office of the Courts; Leave Specialist and Benefits Specialist for Human Resources, Court Management Specialist, Staff Specialist in the Administrative Division and 2 Secretaries.

17 District Court Judges $613,035 R
$108,261 NR
9.00

Nine new District Court Judge positions are created as of December 15, 2000. New positions are in Districts 1,4,9B,10,11,17A,22, 26 and 28. (HB 1840, Sec. 15.3)

18 Additional Superior Court Judges $167,820 R
$17,910 NR
2.00

Creates new Superior Court Judgeships in District #4B (Onslow County) and District #26B (Mecklenburg County) as of December 15, 2000. (HB 1840, Sec. 15.6)

19 Judicial Assistant $35,547 R
$4,954 NR
1.00

Funds for a Judicial Assistant I for Superior Court District #11B.

20 Additional Court of Appeals Judges and Staff $365,295 R
$80,988 NR
10.00

Funds to add 3 Court of Appeals Judges, 3 Executive Assistants, and 4 Research Assistants as of December 15, 2000. (HB 1840, Sec. 15.5)

21 Court of Appeals Mediation Program $25,000 R

Funds to allow a new program to mediate cases post-conviction/pre-appeal in order to reduce Court of Appeals filings. Funds will be used to pay judges and for training.

22 Court of Appeals Research Assistants $99,580 R
$13,512 NR
2.00

Funds to provide 2 Research Assistants for Court of Appeals Judges as of July 1, 2000.

23	**Expand Family Court Program** Funds to expand the Family Court Pilot to 2 additional districts. This program, established in 1998,coordinates case management and service agency efforts for a family involved in the court system. This brings the number of programs to 8. Funds are used to pay case managers and a program administrator in each district.	$513,184 $104,816 8.00	R NR
24	**Salary Increases for Sentencing Services** This item allows non governmental agencies running Sentencing Services programs to provide their employees the same pay increase (4.2% R and $500 NR) to be granted to state employees working in the program, as was done in 1999.	$139,691 $49,490	R NR
25	**Guardian Ad Litem Staff** Funds to add 6 full time equivalent positions to the Guardian-Ad-Litem program; upgrade two 3/4 time regional administrators to fulltime, add 2 program supervisors and 7 half-time program assistants.	$274,192 $43,324 6.00	R NR
26	**Drug Treatment Court Funds** Nonrecurring funds are provided to the Drug Treatment Court program for futher support for programs already underway.	$100,000	NR
	Budget Changes	$8,753,781 $5,535,291	R NR
	Total Position Changes	100.00	
	Revised Total Budget	$361,650,363	

Justice

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$72,575,950**

Budget Changes		
27 Transfer J-NET Positions to OJJ	($225,000)	R
Transfer three positions from the Department of Justice to the Office of Juvenile Justice to support the continued development of the J-NET management information system. Included in the transfer is $15,000 in operating funds. (HB 1840, Sec. 19.1)	-3.00	
Legal Services		
28 Tort Claims Section Positions	$99,951	R
Funds are provided to add an Attorney III and Processing Assistant IV position to the Tort Claims Section, effective August 1, 2000.	$12,897	NR
	2.00	
SBI		
29 DCI Mainframe Migration Project	($350,000)	NR
One time reduction in expansion funding for the DCI mainframe migration project.		
30 Hire 6 Forensic Chemists	$154,270	R
Effective December 1, 2000, hire 6 additional Chemists to reduce the controlled substance case backlog and provide a reasonable turnaround time for case completion.	$69,566	NR
	6.00	
Budget Changes	**$29,221**	**R**
	($267,537)	**NR**
Total Position Changes	5.00	
Revised Total Budget	**$72,337,634**	

Office of Juvenile Justice

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$140,018,378**

Budget Changes

Administration

31 Management Information System (MIS) Support $650,000

Funding is provided to support 10 MIS staff positions effective October 1, 2000. In addition to staff support, partial funding is provided for recurring communications costs. Funds are provided to replace grant funding due to expire in September 2000. 10.00

32 Transfer GRASP from CCPS to OJJ $338,000

The Guard Response to Alternative Sentencing Program (GRASP) is currently administered by the Department of Crime Control and Public Safety, operated by the NC National Guard. The regimented training programs is for at-risk and adjudicated juvenile offenders aged 13-15. Because this program is designed specifically for juveniles, the direct supervision of the program will be transferred to the Office of Juvenile Justice. The National Guard will continue to operate GRASP through a contractual agreement with OJJ.
(HB 1840, Sec. 19.7)

33 Center for Prevention of School Violence $500,000

Transfer the Center for Prevention of School Violence from NC State University to the Office of Juvenile Justice. (HB 1840, Sec. 19) 7.00

34 Transfer J-NET Positions from DOJ $225,000

Transfer three positions from the Department of Justice to the Office of Juvenile Justice to support the continued development of the J-NET management information system. Included in the transfer is $15,000 in operating funds. (HB 1840, Sec. 19.1) 3.00

Detention Bureau

35 Delayed Opening of Two New Detention Centers ($561,000) NR

A partial operating budget of $840,000 was appropriated for two new detention centers based on January, 2001 start dates. The latest schedule shows a July 1, 2001 start date for the Wayne and Alexander facilities allowing for a one-time reduction in the FY 2000-01 budget of $561,000. The amount of $279,000 is retained for one-time start up costs such as equipment.

36 Multi-functional Juvenile Facility ($2,000,000) NR

One time non-recurring reduction in operating funds due to delayed opening of the 100 bed multi-functional juvenile facility. Facility was originally expected to open January 2001. The latest target date is July, 2001. $500,000 is left for 2000-01 in case the facility opens one month early or start up funding is needed.

Intervention/Prevention Bureau

37 Local Juvenile Justice Funding $1,000,000 R
$400,000 NR

Increases county JCPC grants in order to provide additional support for local juvenile programs. $1 million is recurring to be used for JCPC formula grants. The $400,000 non recurring funds are to be allocated to programs that emphasize tutoring, mentoring, and other delinquency prevention activities for at-risk youth.

Special Initiatives Bureau

38 Teen Courts $200,000 R

Provide funding for Teen Courts in Bladen, Chatham, Davidson, Durham, Jones, New Hanover, and Orange Counties.

39 Camp Woodson East $590,748 R
$23,978 NR
24.00

Funding to start a Camp Woodson East October 1, 2000 and to increase staffing at Woodson West by three positions. Camp Woodson is a therapeutic wilderness and education program that is used by the Court as an intermediate sanction and as a transitional program for offenders in training schools. The full cost of the program for 2000-01, $966,426, is offset by recurring and non-recurring receipts.

40 Multi-purpose Group Homes ($400,000) NR

One time non-recurring reduction in operating funds due to delayed opening of four multi-purpose group homes funded in 1998-99.

Budget Changes $3,503,748 R
($2,537,022) NR

Total Position Changes 44.00

Revised Total Budget $140,985,104

Correction

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	$889,943,525

Budget Changes

41	**Reduce Community Corrections Travel Budget** The Department of Correction has studied their travel expenses and adopted several cost savings measures, including reducing the number of Department of Administration owned vehicles in use. Based on these savings, the travel budget for the Division of Community Corrections has been reduced.	($200,000)	R
42	**Reduce Division of Prisons Travel Budget** Based on the study of travel costs, the Division of Prisons Travel Budget can also be reduced.	($150,000)	R
43	**Community Correction Budget for Employee Physicals** Based on expenditures in 1999-2000 for physicals required as a condition of employment for probation/parole officers, a recurring reduction in the budget will be taken.	($100,000)	R
44	**Reduce Community Corrections Equipment Budget** The equipment budget for the Division of Community Corrections is reduced by $110,000, roughly 10% of the equipment budget, for 2000-2001 only.	($110,000)	NR
45	**Reduce DART Cherry Aftercare Funds** The Continuation Budget includes $319,715 in contractual service funds that are used for aftercare for offenders completing the 28 and 90 day programs at DART-Cherry who are not eligible for existing community programs. Funds for this project are reduced to $219,715.	($100,000)	R
46	**Abolish One Vacant Position in Parole Commission** The Governor's Recommended Changes included abolishing a Parole Case Analyst position at a reduction of $35,561. The actual cost savings from (salary plus benefits) this position cut is $45,587	($45,587) -1.00	R
47	**Community Substance Abuse Programs** Increase budget of DOC Substance Abuse program for expansion of community based counseling, job placement and mentoring programs for offenders.	$100,000	NR

48 Eliminate Electronic House Arrest Staff ($93,924) R

-6.00

Improved technology for electronic monitoring has reduced some of the workload of staff in the electronic monitoring area. Six Electronic House Arrest Specialist positions in their Technology Center will be eliminated, five of which are currently vacant. During 2000-2001, the Department will retain $68,000 of the cost of these positions to cover overtime and contractual workers until the new system is fully operational.

49 Increase Fee for Drug Tests ($126,186) R

The Division of Community Corrections operates its own drug testing lab providing testing services to itself, the Division of Prisons, the Office of Juvenile Justice and several local government agencies. They currently charge $2.50 per test. This budget item reflects an increase in fee to $4.00 per test, close to the actual cost of $3.84, not including administrative costs. The Governor recommended an increase to $3.50 but the subcommittee increased it further to $4.00.

50 IMPACT Program ($108,300) R

Reduction in the operating budget for the IMPACT Boot Camp Program.

51 Eliminate IMPACT Aftercare Funding ($440,000) R

Funding for the IMPACT aftercare program is eliminated. This program has worked in 5 locations with offenders completing Boot Camp. The Department of Correction is instead working to involve probation parole officers in aftercare planning for all Boot Camp graduates.

52 Harriet's House $75,000 R

Harriet's House provides services to female offenders released from prison. This funding will increase their state appropriation and allow the program to serve more clients.

53 Reduce funds for non-participating counties - CJPP ($420,000) NR

The continuation budget included funds to fully fund Criminal Justice Partnership Program (CJPP) Implementation Grants for 100 counties. Funding is eliminated for one year for the six counties not expected to participate during 2000-2001. (HB 1840, Sec. 16)

54 Women at Risk $50,000 R

Increase funding for this community correction program for female probationers in Western North Carolina.

55 Summit House $292,834 R

Expansion funding for this residential treatment and assistance program for female probationers and their children.

56 ECO Inmate Family Pilot Project $60,000 NR

Provide one-time funds for the Energy Committed Offenders Program (ECO) to develop a program to provide counseling and services to families of inmates. ECO currently receives state funds to operate a halfway house for female inmates prior to their release from the prison system.

57 Inmate Education and Reentry Program $130,000 NR

Funds for pilot project to provide training and education for male inmates to assist with transition to the community. Funds would go to the Urban Investment Strategies Center at the Kenan Center at UNC Chapel Hill. The project will provide six training programs of 26 sessions each at 6 prisons statewide. Twenty to 25 male offenders will participate in each program.

58 Enterprise Fund Accountants ($344,200) R

Nine Enterprise accounting positions are funded from the General Fund. It is recommended that the positions be supported by receipts from the Enterprise Fund allowing for a reduction in the General Fund.

59 Inmate Welfare Fund ($2,250,000) NR

This special fund is generated from inmate canteens and from contracts for use of telephones by inmates. It is primarily to fund inmate related projects. It is recommended that funds be transferred from the Inmate Welfare Fund to allow a one-time reduction in the General Fund appropriation.

60 Data Processing Equipment ($225,862) NR

One-time reduction of 10% of the Department's data processing equipment budget.

61 Work Release Transportation Fee ($44,844) R

Inmates on work release are required by the General Statutes to contribute towards the cost of their transportation to work. It is recommended that the current fee of $1.50 be increased to $2.00 daily to increase receipts and allow for a General Fund reduction.

62 Division of Prison Employee Uniform Budget ($750,000) R

Correctional officer vacancies and improvements in Central Warehouse inventory procedures allow for a recurring reduction in the employee uniform budget.

63 Division of Prisons Equipment Budget ($460,000) NR

One-time reduction of 10% of the Prison equipment budget

64 Food Service Contract ($223,372) R

Meals at the Black Mountain Correctional Center can now be provided by the Marion Correctional Center so the food service contract at Black Mountain can be cancelled.

65 Department of Correction Management Budget ($300,000) NR

One-time reduction in the non-salary operating budget for central administration of the Department of Correction.

66 Close Currituck Correctional Facility ($1,140,000) R

As proposed by the Governor, it is recommended that Currituck Correctional Center be closed August 1, 2000. Currituck is one of the original GPAC units recommended for closing. Total reduction recommended by the Governor is $1,045,000. An additional reduction of 50 % of the inmate budget (food, medical, clothing) of $95,000 will also be taken.

-38.00

67 Division of Prisons Inmate Food Budget ($2,000,000) R

Through various cost saving initiatives, including changes in inventory practices and the master food menu, DOC believes the continuation budget for inmate food can be reduced. The Governor recommended a reduction of $1,500,000. It is believed an additional $500,000 can be reduced from this budget.

68 Division of Prisons Electricity Budget ($300,000) R

The Division is realizing savings in the electricity budget due to over budgeting for electricity in new prisons and better use of peak power options with the power companies.

69 Increase Correction Enterprise Receipts ($500,000) R

It is recommended that $3,250,000 in Enterprise receipts be transferred to the General Fund to allow for a reduction in the General Fund appropriation, both one time and recurring. ($2 750,000) NR

70 Work Release ($325,000) R

Increase per diem paid to the Department by inmates on work release from $14 to $15 dollars daily.

71 Delay Auton:-bile Replacement ($1,000,000) NR

Based on a revised DOC replacement schedule, a one-time reduction in the budget for vehicle purchases is recommended. This is based on improved maintenance programs and using vehicles from prisons that were closed.

72 Medical Cost Containment Positions $100,239 R

In order to provide additional auditing and review of inmate bills, medical fees and contracts, three positions are recommended. These are a medical cost containment analyst and two accounting positions - - a technician and a clerk. $13,260 NR

3.00

Budget Changes	**($6,473,340)**	R
	($7,212,602)	NR
Total Position Changes	-42.00	
Revised Total Budget	**$876,257,583**	

Correction

Crime Control and Public Safety

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$36,267,844**

Budget Changes

Highway Patrol

73 Highway Patrol Overtime Pay — $0 R

Provides $480,564 from the Highway Fund to pay overtime for State Highway Patrol in lieu of compensatory leave.

74 Salaries and Benefits for New SHP Troopers — $0 R

Provides a reserve for salaries and benefits for 28 new SHP troopers to be hired January 2001. Funds come from the Highway Fund.

National Guard

75 Increase State Match for Tarheel Challenge — $270,000 R

Provide funds to increase the state match for the Tarheel Challenge Program. The National Guard Bureau increased the total budget to $2.8 million beginning FY 00-01.The program will be funded on a 65% federal to 35% state match basis beginning FY 2000

76 Transfer GRASP from CCPS to OJJ — ($338,000) R

The Guard Response to Alternative Sentencing Program (GRASP) is currently administered by the Department of Crime Control and Public Safety, operated by the NC National Guard. The regimented training programs is for at-risk and adjudicated juvenile offenders aged 13-15, Because this program is designed specifically for juveniles, the direct supervision of the program will be transferred to the Office of Juvenile Justice. The National Guard will continue to operate GRASP through a contractual agreement with OJJ.
(HB 1840, Sec. 19.7)

Victims & Justice Services

77 Reduce CVCF Funds — ($500,000) R

The Continuation Budget includes a $2,000,000 general fund appropriation for the Crime Victims Compensation Fund. The CVCF reimburses victims for the economic costs of criminally injurious conduct. This Fund has carried forward cash balances in excess of $2 million each year for the past three years, therefore, funds for this program are reduced to $1,500,000. (HB 1840, Sec. 18.1)

Budget Changes	**($568,000)**	R
Total Position Changes		
Revised Total Budget	**$35,699,844**	

Section J: General Government

Section 1: General Government

General Assembly

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$39,518,408**
Budget Changes	
1900 Reserves and Transfers	
1 Reserves and Transfers	
Reduce contingency reserve funds.	($522,500) NR
2 Prescription Drug Study	
Provide funds to study prescription drug cards for the elderly. (HB 1840, Sec. 20.2)	$250,000 NR
Budget Changes	($272,500) NR
Total Position Changes	
Revised Total Budget	**$39,245,908**

State Budget and Management

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$7,327,782**
Budget Changes	
1022 2000 Special Appropriations	
3 NC Humanities Council Provides funds to the North Carolina Humanities Council, a nonprofit corporation, for the programs of the council.	$100,000 NR
4 NACo Annual National Convention Provides funding for the 2000 Annual Conference of the National Association of Counties. The conference will held in July 2000 in Charlotte, NC.	$200,000 NR
5 National and Regional Board Meetings Provides $20,000 for the Southern Regional Educational Board annual meeting to be held in Asheville, NC. Also provides $100,000 for the National Legislative Black Caucus meeting to be held in Charlotte, NC.	$120,000 NR
Reserves and Transfers	
6 Reserve for Rules Review Commission Lawsuits Provides a reserve to fund lawsuits brought against the Rules Review Commission. (HB 1840, Sec. 24)	$200,000 NR
Budget Changes	$620,000 NR
Total Position Changes	
Revised Total Budget	**$7,947,782**

Secretary of State

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$6,455,933**

Budget Changes		
1110 General Administration Division		
7 Operating Budget Reductions Reduces the operating budget for computer and data processing services (532821).	($14,000)	R
1210 Corporations Division		
8 Corporations Division Staff Expansion Provides funding for four Information Processing Technician positions. The additional staff will help the Division meet the filing demands placed upon it by the growing economy and recent statutory changes.	$122,513 $37,049 4.00	R NR
9 Operating Budget Reductions Reduces the operating budgets for: 532821- Computer/Data Processing Services $35,559 533110- General Office Supplies $ 5,000	($40,559)	R
1220 Uniform Commercial Code Division		
10 Operating Budget Reductions Reduces the operating budget for computer and data processing services (532821).	($5,000)	R

1220 Uniform Commercial Code Section

11 Personnel for Implementation of Revised UCC Art. 9 — $600,239 R

Provides funding for salaries ($482,224) and benefits ($118,015) for the personnel required to implement SB 1305, Revise Article 9 of the UCC. Funding shall be used to establish the following positions: director (1 position), executive assistant (1 position), staff development specialist (1 position), applications analyst programmer II (1 position), administrative assistant (2 positions), administrative officer (2 positions), information processing technician (8 positions), processing assistant V (24 positions), and mail clerk (1 position). The director, executive assistant, staff development specialist, and applications analyst programmer positions are effective October 1, 2000. The Department may establish one administrative assistant position, one administrative officer position, 4 information processing technician positions, 12 processing assistant V positions and the mail clerk position effective January 1, 2001. The remaining positions are effective April 1, 2001.

41.00

12 Operating Cost for Implementing Revised UCC Art. 9 — $268,425 R

$1,891,004 NR

Provides funding for the start-up and operating cost necessary to implement SB 1305, Revise Article 9 of the UCC. The Department shall use nonrecurring funds for office furniture, computer and office equipment, and contractual services. The recurring funds are for the operating costs incurred to implement the bill (HB 1840, Sec. 248).

1230 Securities Division

13 Operating Budget Reductions — ($5,000) R

Reduces the operating budget for computer and data processing services (532821).

Budget Changes	$926,618	R
	$1,928,053	NR
Total Position Changes	45.00	
Revised Total Budget	$9,310,604	

Auditor

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$11,608,041**

Budget Changes		
1210 Field Audit Division		
14 Over-realized Receipts	($116,090)	R
Reduces the General Fund appropriation for field audits. The Department has over-realized its budgeted receipts for audit work related the single audit and CAFR. Increasing budgeted receipts in line items 538301 and 538302 to more accurately reflect actual receipts will result in a reduction in the required General Fund appropriation.		
15 Performance Audit Funds	$144,144	NR
Provides funding to continue the performance audit of the Department of Revenue. Session Law 1999-415 (House Bill 1476) directed the State Auditor to conduct a performance audit of the Department. This funding allows the State Auditor to complete the audit.		
Budget Changes	($116,090)	R
	$144,144	NR
Total Position Changes		
Revised Total Budget	**$11,636,095**	

Treasurer

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	$18,863,033

Budget Changes

1150 Information Services Division

16 Information Technology Infrastructure $601,861 R
$7,011,404 NR
7.00

Provides funding to (1) continue improvement of the investment and banking system, (2) complete the information technology infrastructure upgrades, (3) implement a core banking system and (4) upgrade the retirement payroll system. The Department may use the funds for equipment, software and other recurring and nonrecurring operating expenses needed to upgrade the infrastructure and replace the outdated systems. The Department may also establish 7 new positions (a Portfolio Manager, an Accounting Technician V, an Administrative Assistant, a Systems Accountant, an Accountant II, an Applications Programmer and a Computer Operator). The cost of the projects is $832,249 recurring and $10,464,000 and will be allocated among the General Fund and Receipt-Supported Divisions as noted below:

General Fund Supported Divisions		
1210 Inv. & Banking	$576,105R	$6,941,260NR
1310 Local Gov't	$25,756R	$70,144NR
Total General Fund	$601,861R	$7,011,404NR
Receipt-Supported Divisions		
1130 Escheats	$10,810R	$29,440NR
1410 Retirement	$219,578R	$3,423,156NR
Total Receipts	$230,388R	$3,452,596NR

Nontax revenue will be increased by the amount allocated to the General Fund divisions.

17 Information System Mainframe $243,500 NR

Provides funding to buy out the lease for the Department's mainframe and storage system. The total cost to buy out the lease is $487,000. The cost will be allocated among the divisions within the State Treasurer's Office as noted below:

Receipt Supported Division	
1410 Retirement	$243,500NR
General Fund-Supported Division	
1210 Investment and Banking	$243,500NR

Nontax revenue will be increased by the amount allocated to the General Fund division.

1210 Investment and Banking Division

18 Operating Budget Reductions Reduces the operating budget for computer and data processing services (532821). Nontax revenue will be decreased by an offsetting amount.	($65,683)	R
19 Federal Reserve Fees Provides funding for the fees paid to the Federal Reserve for providing processed warrants in the dual form of electronic records and electronic images. Nontax revenue will be increased by an offsetting amount.	$390,000	R
Budget Changes	$926,178	R
	$7,254,904	NR
Total Position Changes	7.00	
Revised Total Budget	$27,044,115	

Insurance

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	$26,099,037

Budget Changes

1200 Company Services

20 Computer Personnel $182,097 R

Provides funding to establish two Computer Consultant IV positions and one Applications Analyst Programmer II position to automate various core insurance functions so that the Department may offer public access to its databases via the Internet. The General Fund will be reimbursed from the Insurance Regulatory Fund for the total cost. $16,500 NR
3.00

21 Information Technology Funds

Provides funding for contractual services to automate various core insurance functions so that the Department may offer public access to its databases via the Internet. The automation of the core functions will provide the public the ability to submit consumer complaints electronically and track those complaints throughout the Department; access the Department's rules and policy forms of the divisions of Life and Health and Property and Casualty; and access insurance company financial information in order to help consumers make informed choices. The automation shall also provide insurance companies a means by which to submit insurance rates electronically. The General Fund will be reimbursed from the Insurance Regulatory Fund for the total cost. $300,000 NR

1500 Safety Services Group

22 Building Code Book Sales

Reduces the operating budget for producing the Building Code to reflect actual needs in line item 532850. The Department overestimated the demand for the books. ($220,000) NR

1900 Reserves and Transfers

23 Public Protection Classifications	$136,000	R
Provides funding to implement House Bill 1696 of the 1999 General Assembly if it becomes law. The funding is for two inspector positions in the Safety Services Division and the necessary operating cost to establish and modify the insurance public protection classifications of fire districts as provided in G.S. 58-36-10(3) and G.S.58-40-25(4) and as rewritten by the Regular 2000 Session of the .999 General Assembly. The General Fund will be reimbursed from the Insurance Regulatory Fund for the total cost.	$14,000	NR
	2.00	
Budget Changes	$318,097	R
	$110,500	NR
Total Position Changes	5.00	
Revised Total Budget	$26,527,634	

Administration

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$60,089,326**

Budget Changes

1225 State Health Plan Purchasing Alliance

24 Eliminate Health Plan Purchasing Alliance Board ($250,000) R -4.00

Eliminate the appropriation for the operating expenses of the State Health Plan Purchasing Alliance Board. The Health Care Purchasing Alliance Act (Article 66 of Chapter 143 of the General Statutes) will sunset on December 31, 2000. The Board is to finalize its business on or before December 31, 2000. The remaining appropriation for the 2000-2001 fiscal year shall be used for salaries and benefits, allowable separation allowances, and the necessary expenses required to phase out the operations of the Board (HB 1840, Sec. 21.2).

1311 Office of State Personnel

25 Adjust Agency Positions ($64,679) R -1.00

Eliminate salary and related benefits for a vacant position - Office Assistant III, #4000-1002-0104-510. Reduce the salary level and related benefits of the Deputy Director position, #4000-0301-0004-302. Transfer an Administrative Secretary II position, #4000-0700-0004-763, to receipt support.

1411 State Construction Office

26 Operating Budget Reductions ($20,000) R

Reduces the operating budget for the following:

532110 - Legal Services	$10,000
532199 - Misc. Contractual Services	$10,000

1421 Facilities Management Division

27 Operating Budget Reductions ($221,846) R

Reduces funding for building repairs in the Facilities Management Division as recommended by the Governor.

1511 Division of Purchase and Contract

28 Operating Budget Reductions ($18,000) R

Reduces the operating budget for printing, binding and duplicating (532850).

1731 North Carolina Council for Women

29 Sexual Assault Funds $225,000 NR

Provides funds for the continuation of sexual assault programs and the prevention of sexual assault within the State.

30 Domestic Violence Prevention Funds $1,000,000 NR

Provides funding to the Department of Administration for the North Carolina Council for Women. The Council for Women shall provide grants from these funds to existing domestic violence programs, including the NC Coalition Against Domestic Violence, Inc., and for the development of new domestic violence programs. The Department of Administration or the Council for Women shall not use any of the funds for operating expenses.

1771 Division of Veterans Affairs

31 National World War II Memorial Funds $392,000 NR

Provides funding to the Department of Administration for the Division of Veterans Affairs. The funds will be used for the State's voluntary contribution to the American Battle's Monuments Commission for the construction of the National World War II Memorial in Washington, DC. The Commission has challenged each state to contribute $1.00 for each resident who served during World War II. The total requested from North Carolina is $392,000 (HB 1840, Sec. 21).

1810 Ethics Board

32 Operating Budget Reductions ($10,000) R

Reduces the operating budget for other expenses (535900).

1851 Surviving Spouse Pension

33 Reduce Surviving Spouse Pension Fund ($12,000) R

Reduce funding in the Surviving Spouse Pension fund. This fund provides $1,000 per month to the surviving spouse of former Governors of the State. Currently, funding is only needed to provide a pension for one surviving spouse.

1861 Commission on Indian Affairs

34 Lumbee Self-Determination Funds $100,000 NR

Provides partial funding for the activities of the Lumbee Tribe Self-Determination Commission established to resolve the issue of determining the legitimate government of the Lumbee people as a result of the Lumbee Tribe v. Lumbee Regional Development Association (LRDA) lawsuit.

1872 Low-Level Radioactive Waste Authority

35 Eliminate Low-Level Radioactive Waste Authority **($493,047)** R

Eliminate the appropriation for the operating expenses of the Authority. In accordance with Senate Bill 247, North Carolina withdrew from membership in the Southeast Interstate Low-Level Radioactive Waste Management Compact. The Authority is to close and restore the proposed Wake County low-level radioactive waste site and finalize all other responsibilities and business of the Authority on or before June 30, 2000. **-8.00**

Requirements	$(893,072)
Receipts	$(400,025)
Appropriation	$(493,025)

Budget Changes **($1,089,572)** R

$1,717,000 NR

Total Position Changes **-13.00**

Revised Total Budget **$60,716,754**

State Controller

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$11,488,315**
Budget Changes	
1000 Departmentwide	
36 Operating Budget Adjustment	
Reduce data processing funds.	($115,000) NR
Budget Changes	($115,000) NR
Total Position Changes	
Revised Total Budget	**$11,373,315**

Revenue

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$75,755,633**

Budget Changes			
1605 Planning, Development & Technology			
37 2821 Computer/Data Processing Services Adjust budget as a result of rate reduction in transactions processing by Information Technology Services and no increase in utilization.		($200,000)	R
38 Adjust Personnel Eliminate salaries and related benefits of vacant positions:		($343,821) -5.00	R
Computing Consultant IV (#4773-0000-0030-161)	($72,160)		
Application Analyst Programmer I (#4773-0000-0030-535)	($62,585)		
Application Analyst Programmer II (#4773-0000-0030-551)	($70,467)		
Application Analyst Programmer I (#4773-0000-0030-565)	($60,972)		
Systems Programmer III (#4773-0000-0030-405)	($77,637)		
39 Reduce Operating Funds Reduce funding for contractual services (System Implementation/Integration Services) - 532140.		($236,266)	NR
1607 Tax Research Division			
40 Reduce Personnel Eliminate salary and related benefits of vacant position - Economist III, #4774-0000-0040-250.		($59,719) -1.00	R
1621 Corporate, Excise & Insurance			
41 Adjust Personnel Eliminate salary and related benefits of vacant position - Tax Assistant Administrator II, #4788-0000-0050-100.		($84,633) -1.00	R

1629 Property Tax Division

42 Training Funds for Commission Members — $0 R

Provide funding to reimburse commission members for travel and subsistence costs when attending training seminars.

Requirements	$3,800
Receipts	$3,800
GF Appropriation	$ 0

1641 Office Examinations

43 Reduce Personnel — ($50,697) R

Abolish salary and benefits of vacant position - Revenue Tax Auditor I, #4781-0000-0060-382.

-1.00

1660 Field Operations

44 Adjust Personnel — ($176,243) R

Eliminate salaries and related benefits of vacant positions:

-3.00

Revenue Field Auditor II (#4784-0000-0072-032)	($58,760)
Revenue Field Audit Supervisor (#4784-0000-0074-120)	($57,281)
Revenue Field Auditor I (#4784-0000-0076-237)	($51,757)
Longevity	($ 8,445)

45 2714 Transportation — ($150,000) R

Reduce in-state travel funds.

46 Additional Interstate Audit Staff — $734,158 R

Appropriate funds to support eight Revenue Field Auditor II positions and three Processing Assistant IV.

11.00

1681 Administrative Services

47 Costs Related to New Audit Positions — $17,050 R, $53,100 NR

Increase operating funds related to new Interstate Auditor positions:

2811 Telephone Service	$ 3,850 R
3110 General Office Supplies	$ 13,200 R
4511 Office Furniture	$22,000 NR
4521 Office Equipment	$ 1,100 NR
4522 Computer Equipment	$30,000 NR

Budget Changes	**($313,905)**	R
	($183,166)	NR
Total Position Changes	0.00	
Revised Total Budget	**$75,258,562**	

1410 State Library Services

54 Services to the Blind and Physically Handicapped $89,604 R

Appropriate funds to continue operation of the automated library system.

1480 Statewide Programs & Grants

55 Aid to Counties $500,000 NR

Provide additional funds to support grants to public libraries based upon the formula for State-Aid to Libraries.

1992 Continuation Reserve

56 Museum of History-Reserve ($340,178) NR

Reduce funds to outfit the Museum of the Albemarle as construction will not be completed in FY 2000-01.

Budget Changes	**$697,502**	**R**
	$2,409,640	**NR**
Total Position Changes	3.00	
Revised Total Budget	**$63,115,763**	

Cultural Resources

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	$60,008,621

Budget Changes

1210 Archives and History - Administration

48 Queen Anne's Revenge $249,818 NR

Provide funding only for continued recovery and preservation of artifacts from the extremely fragile remains of the shipwreck, "Queen Anne's Revenge".

1230 Archives and Records

49 Leased Space for Records Storage $148,000 R

Appropriate funds to continue the lease for storage of agency records.

1245 NC Maritime Museum

50 NC Maritime Museum at Southport $199,898 R

Provide funds for personnel and operating costs of the branch museum, which has the following budget: 3.00

Total Requirements	$209,898
Receipts	$ 10,000
Appropriation	$199,898

1330 NC Arts Council

51 Operating Support $260,000 R

Appropriate State funds for administrative costs to allow federal funds to be used as match for additional grant funding.

52 Basic Grants Program $1,200,000 NR

Funding provides one-time increase in the continuation budget for grants to local arts organizations in the following categories:

Primary Arts Programs	$600,000
Rural Arts Programs	$400,000
Cultural Tourism	$200,000

53 Grassroots Arts Program $800,000 NR

Provide one-time increase in the continuation budget for grants awarded to local arts councils.

Office of Administrative Hearings

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$2,786,455**
Budget Changes	
1100 Administration and Operations	
57 Reduce Reserve Account	($45,708) R
Eliminate funds that inadvertently were left in the FY 2000-01 continuation budget.	
58 Reduce Personnel	($27,470) R
Eliminate salary and related benefits of a vacant position.	-1.00
59 Reclassify Positions	$8,810 R
Provide funds to set the salary of the Senior Administrative Law Judge at 95% of the salary of the Chief Administrative Law Judge, and upgrade position of the Director of the Civil Rights Division from salary grade 77 to salary grade 78. (HB 1840, Sec.23B)	
Budget Changes	($64,368) R
Total Position Changes	-1.00
Revised Total Budget	**$2,722,087**

Rules Review Commission

GENERAL FUND

	FY 00-01
Total Budget Approved 1999 Session	**$309,326**
Budget Changes	
1100 Administration	
60 Other Expenses	
Appropriate funds to finalize legal expenses resulting from the lawsuit brought by the NC Board of Pharmacy.	$48,000 NR
Budget Changes	$48,000 NR
Total Position Changes	
Revised Total Budget	**$357,326**

Section K: Transportation

Rules Review Commission

GENERAL FUND

	FY 90-91
Total Budget Approved 1989 Session	389,235
Budget Changes	
1100 Administration	
02 Other Expenses	
Appropriation funds to finance legal expenses resulting from the lawsuit brought by the NC Board of Pharmacy	348,100 R
Budget Changes	348,600 R
Total Position Changes	
Revised Total Budget	3387,335

Section K: Transportation

Transportation

HIGHWAY FUND

	FY 00-01
Total Budget Approved 1999 Session	$1,181,410,000

Budget Changes

Administration

(0240) General Services

1 **Additional Property Insurance Payments** Provides additional funding for payments into the State Property Fire Insurance Fund.	$63,000	R
2 **Additional Postage Costs for DMV** Provides additional funding for DMV postage expenses due to increased volume. One-time funds are included to replace the existing mail inserter.	$400,000 $195,000	R NR
3 **Central Warehouse Rental and Staff** Funds rental of a new central warehouse and four new positions for operating the warehouse, two stock clerks II, one processing assistant III, and one warehouse manager.	$556,914 4.00	R

Construction and Maintenance

(5120) Construction - Secondary

4 **Technical Adjustment** The allocation to secondary road construction is determined by statute and is a function of gas tax revenues. Because estimates of gas tax revenues have increased, this corresponding technical adjustment is made in the budget for secondary road construction.	$192,000	R

(5240) Maintenance - Contract Resurfacing

5 **Increased Maintenance - Contract Resurfacing** Provides additional funds for contract resurfacing as part of the maintenance program for the State's highways.	$20,577,486	R

(5400) Capital Improvements

6 Capital Improvements $9,000,000 NR

Provides funds for replacement, repair, and renovation of the Department's facilities.

(5910) State Aid - Municipalities

7 Technical Adjustment $192,000 R

The allocation to municipalities is determined by statute and is a function of gas tax revenues. Because estimates of gas tax revenues have increased, this corresponding technical adjustment is made in the budget for aid to municipalities.

(5940) Rail Program

8 Make Western N. C. Rail Funding Nonrecurring ($3,525,000) R

$3,525,000 NR

(5970) Public Transportation Program

9 Rural Transit - Elderly, Disabled, General Public $500,000 R

Provides funds to assist rural transit programs for the elderly, disabled, and the general public.

10 Operating Assistance to Urban and Regional Transit $5,900,000 R

Provides funds for operating assistance for urban and regional transit programs around the state.

11 Capital Assistance - Rural Transit $1,300,000 R

Provides funds for capital assistance for rural transit programs.

Division of Motor Vehicles

(0530) Driver License

12 Additional Field Hearing Officers (Driver License) $136,059 R

DMV is finding it difficult to comply with the law requiring hearings within 60 days of a driver's request. In addition, effective July 1, 2000, DMV will be implementing the 1999 DWI legislation and the Division is predicting an increase in the number of suspensions of license for violation of DWI restrictions and a consequent increase in hearings. 3.00

13 West Raleigh Office Lease $296,200 R

The West Raleigh DMV office off Blue Ridge Road is inadequate. Funds are provided to lease a space for 36 Enforcement employees and 17 Driver License employees.

(0530/0540) Driver License/School Bus

14 Driver License Office Lease Agreement Renewals $183,025 R

Provides additional funds for increased lease payments for offices of the Driver License Section and the School Bus and Traffic Safety Section.

(0571) Enforcement Section

15 Increase in Safety Inspection Sticker Costs $150,000 R

Provides additional funds due to increased costs for safety inspection stickers.

Reserves

(6220) Leaking Underground Storage Tanks

16 Technical Adjustment $200,000 R

The allocation to the Leaking Underground Storage Tank (LUST) Trust Fund is determined by statute and is a function of gasoline inspection tax revenues. Because estimates of gas tax revenues have increased, this corresponding technical adjustment is made in the budget for the LUST Trust Fund.

(6270) Crime Control & Public Safety

17 Reserve for Equipment for 28 New SHP Troopers $1,267,919 NR

Provides equipment for 28 new SHP Troopers.

18 Salaries and Benefits for New SHP Troopers $655,065 R

Provides a reserve for salaries and benefits for 28 new SHP troopers to be hired effective January 2001. 28.00

19 Highway Patrol Overtime Pay $480,564 NR

Provides funds for overtime pay for State Highway Patrol in lieu of compensatory leave.

(6310) Department of Public Instruction

20 Driver Education Program $449,802 R

Increased payments from the Highway Fund to the Department of Public Instruction for the Driver Education Program to reflect new ADM estimates.

(6610) Retirement Rate Reduction

21 Premium Reserve (Retirees)

Currently, the State reserve for Retiree Health Benefits has a $130 million balance. This item would suspend a portion of the surcharge on employer retirement contributions from the Highway Fund for retiree health benefit premiums for FY 2000-01 only. ($3,100,000) NR

(6611) Retirement Rate Adjustment

22 Reduce Fund for Retirement Rate Adjustment ($14,900,000) R

Reduce contributions in the Teachers' and State Employees' Retirement System.

(6612) Compensation Bonus

23 State Funded Compensation Bonus

Provides nonrecurring appropriation for a one-time $500 per full-time employee compensation bonus to selected public schools, community colleges and State employees. $8,774,000 NR

(6613) Death Benefit Contributions)

24 Reduce Death Benefit Contribution Rate

Currently, the Death Benefit Plan has a cash balance of $44.9 million. This reduction would suspend the State's contribution to the fund for 2000-2001 only. ($846,400) NR

(6801) Legislative Salary Increase

25 Funds for Salary Increase $18,200,000 R

Provides for a 2.2% cost-of-living adjustment and a 2.0% career growth recognition award.

(6828) Reserve for Maintenance

26 Additional Funds for Maintenance $6,277,366 R

Provides reserve for additional funds for primary, secondary, and urban maintenance.

(6834) Reserve for DMV Systems Maint.

27 **Reserve for DMV Computer Systems Maintenance** $3,300,000 R

The Division currently performs computer system maintenance primarily with contractors at a total cost of $5 million per year but with a budget of approximately $1 million. This reserve would permit DMV to begin a transition to in- house staff at a lower cost than contractors.

(6835) Pilot Program - Unpaved Roads

28 **Pilot Program to Improve Unpaved Roads** $1,500,000 NR

Provides funds for pilot program to provide minimal improvements to make unpaved roads more accessible.

(6836) State Employee Reserve

29 **State Employee Reserve** $3,700,000 R

Creates a reserve to offset any cost increases in the Teachers' and State Employees' Comprehensive Major Medical Plan.

Budget Changes	**$44,803,917**
	$20,796,083
Total Position Changes	35.00
Revised Total Budget	**$1,247,010,000**

Section L: Reserves

Section L: Reserves

Statewide Reserves

GENERAL FUND

FY 00-01

1	**Compensation Increases** Provides recurring funds to increase salaries of Public School, Community College, University, and State Employees. Percentage increases for each group of employees is listed below. Public Education: Teacher Salary Schedule - 6.5% average Principals and Assistant Principals - 10% average Other Public School Employees - 4.2% Community College Employees - 4.2% average State Employees: SPA (State Agency and UNC System) - 4.2% EPA (State Agency) - 4.2% EPA (UNC System) - 4.2% average State Agency Teachers - 6.5% average School of Science and Math Faculty - 6.5% average	$456,750,000	R
2	**State Employee Reserve** Creates a reserve to offset any increases in the cost of the Teachers' and State Employees' Comprehensive Major Medical Plan.	$48,000,000	R
3	**State Funded Compensation Bonus** Provides nonrecurring appropriation for a one-time $500 per full-time employee compensation bonus to selected Public Schools, Community Colleges, and State employees.	$83,500,000	NR
4	**Savings Reserve Account** Provides a direct appropriation of $120,000,000 into the Savings Reserve Account. This appropriation would raise the balance in the account to $156,554,741.	$120,000,000	NR
5	**Clean Water Management Trust Fund** Provides a direct appropriation of $30,000,000 to finance projects that improve surface water quality.	$30,000,000	NR

6	**Statewide Reserve for Salary Increases** Funds remaining in the Reserve for FY 1999-00 Salary Increases are not needed and it is recommended that they be reduced from the FY 2000-01 General Fund Budget.	($11,000,000)	R
7	**Debt Service** Reduces funds for debt service due to revised requirements for principal and interest payments.	($52,200,000)	NR
8	**Retirement Rate Adjustment** Currently, the Retirement System recognizes approximately 73% of all assets ($30.2 billion of $41.4 billion assets). This item would reduce the contribution rate from 8.15% to 5.33% of payroll for members of the Teachers' and State Employees' Retirement System. This adjusted rate would now recognize approximately 77% of all Retirement System assets.	($191,294,000)	R
9	**Death Benefit Contribution Rate** Currently, the Death Benefit Pension Fund has a cash balance of $44.9 million. This reduction would suspend the State's contribution to this Fund only for the 2000-01 fiscal year.	($10,864,400)	NR
10	**Premium Reserve (Employees)** Reduces funds for premium increases to the Teachers' and State Employees' Comprehensive Major Medical Plan.	($32,700,000)	R
11	**Premium Reserve (Retirees)** Currently, the State Reserve for Retiree Health Benefits has a $130 million balance. This item would suspend a portion of the surcharge on employer retirement contributions for retiree health benefit premiums for FY 00-01 only.	($50,000,000)	NR
Total Appropriation to Reserves		**$269,756,000**	**R**
		$120,435,600	**NR**

Section M: Capital

6	Statewide Reserve for Salary Increases Funds remaining in the Reserve for FY 1999-00 Salary Increases are not needed and it is recommended that they be reduced from the FY 2000-01 General Fund Budget.	($11,000,000)	R
7	Debt Service Reduces funds for debt service due to revised requirements for principal and interest payments.	($22,200,000)	NR
8	Retirement Rate Adjustment Currently, the Retirement System recognizes approximately 72% of all assets ($20.2 billion of $41.4 billion assets). This rise would reduce the contribution rate from 8.15% to 5.58% of payroll for members of the Teachers' and Employees' Retirement System. This adjusted rate would now recognize approximately 71% of all Retirement System assets.	($191,294,000)	R
9	Death Benefit Contribution Rate Currently, the Death Benefit Pension Fund has a cash balance of $45.1 million. This reduction would suspend the State's contribution to this fund only for the 2000-01 fiscal year.	($43,694,400)	NR
10	Pension Reserve (Employee) Reserve funds for general increases to the Teachers' and State Employees' Comprehensive Major Medical Plan.	($32,700,000)	R
11	Pension Reserve (Retiree) Currently, the State Reserve for Retiree Health Benefits has a $130 million balance. This item would suspend a portion of the employer as employer retirement contribution for retiree health benefit premiums for FY 00-01 only.	($60,000,000)	NR
	Total Appropriations to Reserves	$369,790,000	R
		$130,400,000	NR

Section M: Capital

Capital

	GENERAL FUND	
	FY 00-01	
1 Repairs and Renovations Funds Provides a direct appropriation of $100,000,000 for repairs and renovations of UNC System and State Buildings throughout North Carolina.	$100,000,000	NR
2 Water Resources Projects Provides state funds to match federal and/or local funds for water resources development projects as outlined in the state's Water Resources Plan.	$13,356,000	NR
3 National Guard Armory at Charlotte Provides state's match for a new armory in Charlotte. The federal share is $5,874,100 and the local government share is $777,000.	$1,618,172	NR
Total Appropriation to Capital	$114,974,172	NR

Capital

GENERAL FUND

FY 00-01

1 Repairs and Renovations Funds

Provides a direct appropriation of $100,000,000 for repairs and renovations of UNC System and State Buildings throughout North Carolina. $100,000,000 NR

2 Water Resources Projects

Provides state funds to match federal and/or local funds for water resources development projects as outlined in the state's Water Resources Plan. $13,358,000 NR

3 National Guard Armory at Charlotte

Provides state's match for a new armory in Charlotte. The federal share is $3,814,100 and the local government share is $777,000. $1,619,172 NR

Total Appropriation to Capital

$114,977,172 NR

STATE OF NORTH CAROLINA

DEPARTMENT OF STATE,

RALEIGH, JULY 13, 2000

I, ELAINE F. MARSHALL, Secretary of State of North Carolina hereby certify that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions on file in the office of the Secretary of State.

Elaine F. Marshall

Secretary of State

APPENDIX

EXECUTIVE ORDERS OF GOVERNOR JAMES B. HUNT, JR.

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State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 167
EMERGENCY RELIEF FOR DAMAGE
CAUSED BY JANUARY 2000 WINTER STORM

WHEREAS, I have proclaimed that a state of emergency and disaster exists in North Carolina due to a winter storm; and

WHEREAS, the North Carolina Department of Transportation has declared a State emergency justifying an exemption from 49 C.F.R. 390-397 (Federal Motor Carrier Safety Regulations); and

WHEREAS, under the provisions of N.C.G.S. 166A-4(3) and 166A-6(c)(3), the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that if vehicles carrying salt to alleviate slippery conditions on ice-covered streets, roads and highways and equipment used to restore public utilities must adhere to the registration requirements of N.C.G.S. 20-86.1 and 20- 382, fuel tax requirements of N.C.G.S. 105-449.47, and the size and weight requirements of N.C.G.S. 20-116 and N.C.G.S. 20-118, then streets, roads and highways will not be cleared of slippery conditions in an expeditious manner and this will result in an imminent threat of widespread damage within the meaning of N.C.G.S. 166-A-4(3);

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and with the concurrence of the Council of State, IT IS ORDERED:

Section 1. The Division of Motor Vehicles shall waive certain size and weight restrictions and penalties therefore arising under N.C.G.S. 20-116 and N.C.G.S. 20-118, and certain registration requirements and penalties therefore arising under N.C.G.S. 20-86.1, 20-382, 105-449.47, 105-449.49 for vehicles transporting salt, and

equipment used to restore public utilities, along our streets, roads and highways to North Carolina's winter storm stricken counties.

Section 2. Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

(A) When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.

(B) When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.

(C) When a vehicle/vehicle combination exceeds 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.

Section 3. Vehicles referenced under section 1 shall be exempt from the following registration requirements:

(A) The $50.00 fee listed in N.C.G.S. 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. 105-449.45(a)(1) applies.

(B) The registration requirement under N.C.G.S. 20-382 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance.

(C) Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the spirit of the exemptions identified by this Executive Order.

Section 4. The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation. This order shall not be in effect on bridges posted pursuant to N.C.G.S. 136-72.

Section 5. The waiver of regulations under 49 C.F.R. 390-397 (Federal Motor Carrier Safety Regulations) does not apply to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or for the duration of the emergency, whichever is less.

Section 6. The North Carolina Department of Transportation shall enforce the conditions set forth in Sections 1, 2, and 3 in a manner which will best accomplish the implementation of this rule without endangering motorists in North Carolina.

Section 7. Upon request, exempted vehicles shall be required to produce identification sufficient to establish that its load consists of salt and equipment used to restore public utilities which will be used for emergency relief efforts associated with the January 2000 winter storm and the alleviation of slippery conditions along North Carolina streets, roads and highways.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days from the date provided below.

Done in the Capital City of Raleigh, North Carolina this 28th day of January, 2000.



James B. Hunt Jr.
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 168
COMMUNITY SERVICE LEAVE
FOR STATE EMPLOYEES

WHEREAS, the State of North Carolina recognizes the diverse and distinct needs of its schools, communities and citizens; and,

WHEREAS, the employees of state government embrace and accept the gubernatorial charge to make North Carolina schools "First In America" by the year 2010; and,

WHEREAS, the employees of state government are committed to public service and are engaged in the delivery of diverse programs and services on behalf and in support of North Carolina's schools, communities and citizens; and,

WHEREAS, the employees of state government represent an important and significant source of volunteers who offer their talents and energies to the State's schools, communities and citizens and who support the work of public and private non-profit organizations; and,

WHEREAS, the employees of state government are committed to and often engaged in supporting the State's schools, communities, citizens and non-profit organizations by volunteering time and effort but are often unable to meet those needs during regularly scheduled work hours.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of North Carolina, IT IS ORDERED:

Section 1: Community Service Leave for State Employees Established

In recognition of the State's diverse needs for volunteers to support schools, communities, citizens and non-profit organizations, and recognizing the commitment of state employees to engage in volunteer service to the State, the North Carolina Office of State Personnel shall establish a program for awarding Community Service Leave to state employees subject to the State Personnel Act.

Section 2: Purpose and Administration

Community Service Leave shall be available to all eligible state employees to encourage volunteerism in support of North Carolina's schools, communities, citizens and non-profit organizations. This leave shall incorporate existing leave policies previously approved by the State Personnel Commission for child involvement and community involvement.

Leave awarded under any of these provisions is considered Community Service Leave and shall be accounted for under the provisions of a Community Service Leave policy to be promulgated by the State Personnel Commission. Community Service Leave shall be awarded in lieu of existing policies for Child Involvement and Community Involvement Leave.

State employees shall be awarded twenty-four (24) hours of Community Service Leave annually which may be used for volunteer participation in the programs, services and organizations indicated below, or they may elect to receive an award equivalent to one (1) hour for each week that a public school is in session. The latter award is to be used exclusively for mentoring or tutoring students in North Carolina schools.

Leave for Child Involvement and School Volunteerism

Employees may use all or part of their annual allotment of Community Service Leave to volunteer time in support of programs and services in public and private elementary, middle and high schools, and licensed public and private day care and pre-school settings. A parent may use this leave to meet with a teacher or administrator concerning the parent's child or may attend any educational function sponsored by the school in which the child is participating.

Leave for Non-Profit Organization Volunteerism

Employees may use all or part of their annual 24-hour allotment of Community Service Leave to volunteer time in non-profit, non-partisan community organizations which are designated as 501(c)(3) agencies under the Internal Revenue Code, or human services organizations licensed or accredited to serve citizens with special needs including children, youth, and the elderly.

Leave for Tutoring and Mentoring in North Carolina Schools

In lieu of the 24-hour award as noted above, employees may elect to receive one (1) hour of volunteer leave for each week that public schools are in session as documented by a local Board of Education. This leave award shall be used exclusively for tutoring or mentoring a student in accordance with established standards, rules and guidelines for such arrangements as determined and documented by joint agreement with the employee's agency or university and the

school. A "school" is one that is authorized to operate under the laws of the State of North Carolina and is an elementary school, middle school, high school, or child care program.

Section 3: Establishment of Policy

The North Carolina State Personnel Commission in concert with the State Personnel Director shall develop appropriate policies, rules, procedures and criteria for the administration and reporting of Community Service Leave.

Section 4: Effective Date

Community Service Leave shall be available to state employees upon approval of a Community Service Leave policy by the State Personnel Commission.

This Order is effective immediately.

Done in the Capital City of Raleigh, North Carolina, this 13th day of April, 2000.

James B. Hunt Jr.
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 169
GOVERNOR'S PUBLIC MANAGEMENT FELLOWSHIP PROGRAM

WHEREAS, the State of North Carolina has a continuing need to attract and retain exceptionally capable and highly trained public managers and policy researchers; and,

WHEREAS, the State has nine universities within the University of North Carolina system and one private university training students to assume leadership roles as public managers and policy researchers through Master of Public Administration or similarly focused programs; and,

WHEREAS, the graduates of these programs would bring innovative ideas and leadership to human resources, policy development, finance, planning and analysis, and other functions of state government; and,

WHEREAS, very few new graduates now seek employment in state government and, therefore, take their knowledge, skills and abilities to the federal government through the Presidential Management Internship Program, enter post-graduate internship programs offered by local governments, or begin careers in other related settings.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of North Carolina, IT IS ORDERED:

Section 1. The Governor's Public Management Fellowship Program (GPMFP) Established.

The Governor's Public Management Fellowship Program is hereby established. The Program shall be a partnership between the Office of State Personnel, Human Resources Development Division, and the graduate programs in the state offering Master of Public Administration degrees or similar degrees at the nine universities within the

University of North Carolina System (Appalachian State University, East Carolina University, North Carolina Central University, North Carolina State University, University of North Carolina at Chapel Hill, University of North Carolina at Charlotte, University of North Carolina at Greensboro, University of North Carolina at Pembroke, and Western Carolina University), and Duke University.

Section 2. Purpose.

The Governor's Public Management Fellowship Program shall serve four primary purposes:

a. Provide an entry path into state government management and research positions for highly qualified recent MPA graduates;

b. Establish a partnership between state government and the academic community to improve the quality of managerial talent available to the state;

c. Communicate clearly the importance of ability and appropriate advanced education in state government; and,

d. Create a partnership of public, private and academic sectors to improve the quality of state government.

Section 3. Administration.

The State Personnel Director and the Directors of the ten graduate programs shall plan and administer the Governor's Public Management Fellowship Program and shall serve as the GPMFP Partnership Council. The Partnership Council may select an Advisory Group from the private business, nonprofit and local government sectors, the Cabinet and Council of State agencies, the Presidential Management Internship Program, and others who can contribute to the effective functioning of the program.

Section 4. Funding Positions.

Each Cabinet agency, plus the Office of State Budget and Management and the Office of State Personnel, shall identify resources to fund a GPMFP position. Council of State agencies are encouraged to fund a position.

Section 5. Selection of Fellows.

The recruitment and selection processes within the University and all participating agencies shall:

a. Ensure the Fellows selected best meet the needs of the respective agency;

b. Comply with all existing state and federal laws, policies and rules governing personnel actions;

c. Ensure full and fair consideration of all Fellowship candidates without regard to race, religion, color, creed, national origin, sex, age, disability or political affiliation; and,

d. Comply with good human resource management practices and with any procedural guidelines designed by the GPMFP Partnership Council.

Section 6. Guidelines and Timeframes.

The GPMFP Partnership Council shall develop operational guidelines and timeframes to ensure that Fellows and the state receive maximum benefits from the program. The items to be included in the guidelines shall include, but not be limited to:

a. Recruitment and selection processes at the University level, limited to three applicants per university;

b. Recruitment and selection processes at the Agency level;

c. Assessment Center procedures;

d. Orientation program to state government and to the respective Agencies;

e. Performance agreements for the Fellows, the Agencies, the Universities, the Office of State Personnel, and the GPMFP Partnership Council;

f. Cross-functional activities for the Fellows within state government, and seminars and workshops to enhance professional growth;

g. Mentoring and other support roles for Agency and University personnel to nurture and guide the Fellows;

h. Performance measurement strategies of the Fellows, Partnership Council, Mentors, Agency and University personnel, and other key parties;

i. Monitoring procedures for program implementation within the agencies;

j. Evaluation of the development, implementation and impact, with special emphasis on the outcomes, of the GPMFP;

k. Recommendations and strategies to ensure program effectiveness; and

l. Procedures to report the impact of GPMFP to the Office of the Governor, the General Assembly, the Universities, and the general public.

Section 7. Duties of the Office of State Personnel.

The Office of State Personnel shall ensure the provisions of this Order are accomplished. The Office of State Personnel shall monitor the implementation of the program and compliance with this Order.

Section 8. Rescission of Executive Order Number 133

Executive Order Number 133 entitled "Governor's Public Management Internship Program" hereby is rescinded. The Governor's Public Management Fellowship Program created herein is the successor organization to the entity created under Executive Order Number 133.

This Order is effective immediately.

Done in the Capital City of Raleigh, North Carolina, this 13th day of April, 2000.

James B. Hunt Jr.
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 170
AMENDING AND EXTENDING EXECUTIVE ORDER NO. 134

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. Amendment

Executive Order No. 134, the Commission on Substance Abuse Treatment and Prevention, is amended as follows. The name of the entity created by Executive Order No. 134 is changed to the Commission on Prevention and Treatment of Substance Abuse and Addiction.

Section 2. Extension

Executive Order No. 134, as amended, hereby is extended for two years from the effective date of this executive order provided below.

This order is effective immediately.

Done in Raleigh, North Carolina, this the 3rd day of May, 2000.

James B. Hunt Jr.
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 171
THE NORTH CAROLINA COUNCIL FOR
ENTREPRENEURSHIP AND TECHNOLOGY

WHEREAS, North Carolina's modern economy is the beneficiary of a long history of industrial technological and entrepreneurial activity; and

WHEREAS, the economy of 21st century North Carolina is being shaped today by entrepreneurial growth companies developing throughout the state; and

WHEREAS, investments in technology help renew existing companies, generate opportunities for new companies and new industries and create jobs; and

WHEREAS, the states that make the best investment in technology are going to be those that prosper in the 21st century; and

WHEREAS, North Carolina has already made a strong start in this direction, and has put in place many of the resources necessary to compete in a global economy; and

WHEREAS, clear and sound strategies are required to harness these resources and direct them where they will do the most good for our industries and our people; and

WHEREAS, the importance of both innovation and entrepreneurship to North Carolina's economic present and future has previously been recognized in the creation of the Entrepreneurial Development Board and the North Carolina Alliance for Competitive Technologies; and

WHEREAS, it is appropriate to now integrate the roles of those entities within the North Carolina Department of Commerce.

NOW THEREFORE, by the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. Establishment

The North Carolina Council for Entrepreneurship and Technology (the "Council") is hereby established through the consolidation of the Entrepreneurial Development Board and the Board of Directors of the North Carolina Alliance for Competitive Technologies (NCACTS) which are therefore hereby abolished.

Section 2. Members

The Council shall be composed of at least 15 members appointed by the Governor to serve at his pleasure.

The Secretary of Commerce, or his designee, shall serve as an ex-officio member of the Council.

The Council may include among its membership persons from both the public and private sectors provided that a majority of members shall be from the private sector. Specifically, Council members shall be appointed from entrepreneurial and manufacturing companies, educational institutions, economic development organizations, government (including executive and legislative branches), and non-profit institutions.

All initial members, except the Chair, shall serve a one year term, and until their successors are appointed. Thereafter, terms shall be staggered with one third of the members having one-year terms; one third having two-year terms; and one third having three-year terms. Members appointed or re-appointed thereafter shall serve three-year terms.

Section 3. Chair

The Governor shall appoint the Chair of the Council to serve an initial three-year term. Subsequent Chairs shall be elected by the Council members.

Section 4. Meetings

The Council shall meet at the call of its Chair.

Section 5. Duties

The Council shall provide guidance to the North Carolina Department of Commerce (the "Department") and the Center of Entrepreneurship and Technology (the "Center) which has been established within the Department to apply innovation, technology and technical resources to promote entrepreneurial economic growth in the State. In that capacity, the Council shall recommend to the Department and to the Center policies and actions to:

Implement and evolve the comprehensive long-range strategy and vision developed by the North Carolina Alliance for Competitive Technologies (NCACTS) to guide the use of public resources devoted to economic competitiveness;

Link economic policy and technology policy in order to apply and coordinate innovation, technology, and technical resources to support economic development throughout the State;

Support information gathering and infrastructure building activities that focus on research, technology development, and technology deployment for key industries and that address critical issues facing the state;

Assess industry opportunities for applied research and technology deployment and identify sources of technical assistance and research capabilities to address those opportunities;

Address the critical capital personnel, technology, and infrastructure requirements of North Carolina industries in their modernization and product and process improvement efforts;

Assess entrepreneurial activity across North Carolina to provide timely information for targeted state technology and entrepreneurial development resources;

Increase the availability of equity capital and other forms of financing for entrepreneurial companies and to attract additional venture capital to North Carolina; and

Promote the coordination of efforts by the Department of Commerce and others to support entrepreneurial development and to remove administrative barriers and impediments to the creation of new enterprises.

Section 6. Administration

The Center shall provide staff and administrative support services for the Council.

The Council shall work closely with the North Carolina Economic Development Board and Board of Science and Technology. Council members shall serve without compensation but, subject to the availability of funds, shall be eligible for per diem, travel, and subsistence as provided by North Carolina policy and law.

This order is effective immediately.

Done in the Capitol City of Raleigh, North Carolina, this the 22nd day of May, 2000.

James B. Hunt Jr.
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 172
EXTENDING EXECUTIVE ORDER NO. 136

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Executive Order No. 136, establishing the Governor's Advisory Council on Hispanic/Latino Affairs, is hereby extended until December 31, 2001.

This order is effective immediately.

Done in the Capitol City of Raleigh, North Carolina, this the 31st day of May, 2000.

James B. Hunt Jr.
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 173
IMPLEMENTATION OF THE INTERIM
NORTH CAROLINA EMERGENCY OPERATIONS PLAN
DATED JULY 2000

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes, N.C.G.S. §166A-5(1)a.6) permits the use of services, equipment, supplies and facilities of existing departments, offices and agencies of the State; and

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) requires the officers and personnel of all such departments, offices and agencies to cooperate with and extend such services and facilities upon request; and

WHEREAS, the authority to take such actions extends to emergency management planning purposes; and

WHEREAS, the functions of the State emergency management program include preparation and maintenance of State plans for disasters and the state plans or any parts thereof may be incorporated into executive orders of the Governor; and

WHEREAS, to facilitate a coordinated, effective relief and recovery effort among state and local government entities and agencies, this order is executed.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. All state and local government entities and agencies are requested to cooperate in the implementation of the provisions of the Interim North Carolina Emergency Operations Plan (NCEOP) dated July 2000.

Section 2. I hereby delegate to the Secretary of the North Carolina Department of Crime Control and Public Safety, and/or the Secretary's designee, all power and authority granted to me and required of me by Chapter 166A, and Article 36A of Chapter 14 of the General Statutes for the purposes of implementing the said Interim Emergency Operations Plan.

Section 3. The Secretary of the North Carolina Department of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G.S. §143B-476.

Section 4. This executive order is effective immediately and shall remain in effect until rescinded.

Done in the Capital City of Raleigh, North Carolina, this the 5th day of September, 2000.

James B. Hunt Jr.
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 174
EXTENDING EXECUTIVE ORDER NO. 48

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Executive Order No. 48, Concerning the State Commission on National and Community Service (now known as the "North Carolina Commission on Volunteerism and Community Service"), as previously extended and as previously amended by Executive Order No. 154, is hereby extended until December 31, 2001.

This order is effective immediately.

Done in Raleigh, North Carolina, this the 8th day of November, 2000.

James B. Hunt Jr.
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 175
EXTENDING EXECUTIVE ORDER NO. 157

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Executive Order No. 157, Mentoring Council, is hereby extended until December 31, 2001.

This order is effective immediately.

Done in Raleigh, North Carolina, this the 8th day of November, 2000.

James B. Hunt Jr.
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 176
SUSPENSION OF RULES AND REGULATIONS
LIMITING THE HOURS OPERATORS
OF COMMERCIAL VEHICLES MAY DRIVE

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) authorizes and empowers the Governor to make, amend or rescind the necessary orders, rules and regulations within the limits of the authority conferred upon him, with due consideration of the policies of the federal government;

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) authorizes and empowers the Governor to deliver materials or perform services for disaster purposes on such terms and conditions as may be prescribed by any existing law; and

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) authorizes the Governor, with the concurrence of the Council of State, to procure, transport, store, maintain or distribute materials for emergency management without regard to the limitation of any existing law; and

WHEREAS, the uninterrupted supply of Liquefied Petroleum Gas (propane) as to residential and commercial establishments is an essential need of the public during the winter and any interruption threatens the public welfare; and

WHEREAS, the continued period of cold weather has increased the demand for Liquefied Petroleum Gas and threatened the uninterrupted delivery of Liquefied Petroleum Gas to residential and commercial customers; and

WHEREAS, the Federal Motor Carrier Safety regulations, 49 CFR 390 through 399, limit the hours operators of commercial vehicles may drive; and

WHEREAS, 49 CFR 390.23 allows the Governor to suspend the rules and regulations limiting the hours operators of commercial vehicles may drive for the duration of the motor carrier's or driver's direct assistance in providing emergency relief, or thirty (30) days from the date of the initial declaration of the emergency, whichever is less, if the Governor declares a state of emergency.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. The state of emergency and threatened disaster justifies an exemption from Parts 390 through 399 of Title 49 of the Code of Federal Regulations as authorized by federal law.

Section 2. This emergency shall not exceed the duration of the motor carrier's or driver's direct assistance in providing emergency relief, or thirty (30) days from the date of the initial declaration of the emergency, whichever is less.

Section 3. This executive order is effective immediately, and shall remain in effect until rescinded.

Done in the Capital City of Raleigh, North Carolina, this the 22nd day of December, 2000.

James B. Hunt Jr.
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 177
EMERGENCY RELIEF FOR THE STATE OF ARKANSAS

WHEREAS, the Governor of the State of Arkansas has declared a state of disaster as a result of a severe winter storm, and

WHEREAS, under the provisions of N.C.G.S. 166A-40 et. seq., the Emergency Management Assistance Compact authorizes the Governor to provide for mutual assistance between the party states in managing any emergency or disaster that is duly declared by the Governor of the affected state, and

WHEREAS, I have found that if vehicles transporting equipment and supplies to restore utilities in the State of Arkansas must adhere to the weight restrictions of N.C.G.S. 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. 105-449.47, and the size and weight requirements of N.C.G.S. 20-116 and N.C.G.S. 20-118, citizens in Arkansas likely will suffer losses.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. The Division of Motor Vehicles shall waive size and weight restrictions and penalties therefore arising under N.C.G.S. 20-88 and N.C.G.S. 20-118, and certain registration requirements and penalties therefore arising under N.C.G.S. 20.86.1, 20-382, 105-449.47, 105-449.49 for vehicles transporting equipment and supplies along our highways to the State of Arkansas.

Section 2. Notwithstanding the waivers set forth above, size and weight restrictions and penalties shall not be waived under the following conditions:

When the vehicle weight exceeds the maximum gross vehicle weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross vehicle weight, whichever is less.

When tandem axle weights exceed 42,000 pounds and single axle weights exceed 22,000 pounds.

When vehicle/vehicle combination exceeds 12 feet in width and a total overall combination vehicle length of 65 feet from bumper to bumper.

Section 3. Vehicles referenced under Section 1 shall be exempt from the following registration requirements:

The $50.00 fee listed in N.C.G.S. 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. 105-449.45(a)(1) applies.

The registration requirement under N.C.G.S. 20-382 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance.

Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the spirit of the exemptions identified by this Executive Order.

Section 4. The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S 136-72.

Section 5. The waiver of regulations under 49 C.F.R. 390-397 (Federal Motor Carrier Safety Regulations) do not apply to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or for the duration of the emergency, whichever is less.

Section 6. The North Carolina Department of Transportation shall enforce the conditions set forth in Sections 1, 2, and 3 in a manner which would best accomplish the implementation of this rule without endangering motorists in North Carolina.

Section 7. Upon request, exempted vehicles will be required to produce identification sufficient to establish that its load will be used for emergency relief efforts in the State of Arkansas.

This Executive Order shall be effective immediately and shall remain in effect for 30 days.

Done in the Capital City of Raleigh, North Carolina this 28th day of December, 2000.

James B. Hunt Jr.

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 178
SUSPENSION OF RULES AND REGULATIONS
LIMITING THE HOURS OPERATORS
OF COMMERCIAL VEHICLES MAY DRIVE

WHEREAS, the North Carolina Emergency Management Act (Chapter 166A of the North Carolina General Statutes) authorizes and empowers the Governor to make, amend or rescind the necessary orders, rules and regulations within the limits of the authority conferred upon him, with due consideration of the policies of the federal government and authorizes and empowers the Governor to deliver materials or perform services for disaster purposes on such terms and conditions as may be prescribed by any existing law; and,

WHEREAS, the uninterrupted supply of kerosene and fuel oil as to residential and commercial establishments is an essential need of the public during the winter and any interruption threatens the public welfare; and,

WHEREAS, the continued period of cold weather has increased the demand for kerosene and fuel oil and threatens the uninterrupted delivery of kerosene and fuel oil to residential and commercial customers; and,

WHEREAS, certain federal regulations limit the hours operators of commercial vehicles may drive; and,

WHEREAS, 49 CFR 390.23 allows the Governor to suspend the rules and regulations limiting the hours operators of commercial vehicles may drive for the duration of the motor carrier's or driver's direct assistance in providing emergency relief, or thirty (30) days from the date of the initial declaration of the emergency, whichever is less, if the Governor declares a state of emergency; and,

WHEREAS, the Governor declared a state of emergency on December 22, 2000, because of the extraordinarily cold weather that has persisted in the state.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. Carriers transporting kerosene and fuel oil hereby are exempted from the provisions of Part 395 of Title 49 of the Code of Federal Regulations as authorized by federal law.

Section 2. This exemption does not apply to carriers transporting gasoline or diesel fuel for highway use.

Section 3. This exemption shall not exceed the duration of the motor carrier's or driver's direct assistance in providing emergency relief or thirty (30) days from the date of the initial declaration of the emergency, whichever is less.

Section 4. This executive order is effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 29th day of December, 2000.



James B. Hunt Jr.
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 179
EXTENDING EXECUTIVE ORDER NO. 88

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Executive Order No. 88 regarding the Statewide Flexible Benefits Program, as previously amended, hereby is extended for two years from the effective date provided below.

This order is effective immediately.

Done in Raleigh, North Carolina, this the 29th day of December, 2000.



James B. Hunt Jr.
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

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